

Copyright Applies To Everyone

**Missouri Department of Elementary and
Secondary Education**

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COPYRIGHT LAWS, GUIDELINES, POLICIES AND SCHOOLS

This document has been developed to help PreK - 12 school district personnel understand and comply with the following laws, guidelines, and policy:

Laws

- United States Code, Title 17
- Digital Millennium Copyright Act of 1998 (H.R. 2281)
- Copyright Term Extension Act (S. 505)

Guidelines

Educational Fair Use Guidelines were developed by the Conference on Fair Use (CONFU), including:

- Fair Use Guidelines for Educational Uses for Multimedia developed by the Consortium of College and University Media Centers (CCUMC)
- Educational Fair Use Guidelines for Digital Images
- Educational Fair Use Guidelines for Distance Learning

Policy

The American Library Association (ALA) created a *Model Policy Concerning College and University Photocopying for Classroom, Library, and Reserve Use* (1982).

Development of this document

This document was created by professional educators and reviewed by attorneys specializing in the area of copyright. The purpose of this document is to clarify copyright issues for school personnel. Note that many of the questions set forth in this document pose various scenarios not specifically addressed by current case law. The guidelines are agreed upon interpretations of the law by various affected institutions and organizations. Only the courts can decide whether a particular use meets the specific requirements of the various fair use exceptions set forth in the copyright statute. The courts base their decisions upon the specific facts and circumstances surrounding the particular use in question.

Due to rapid changes and advancements in technology, and changing law in the copyright area, what constitutes acceptable fair use today in a particular situation may not constitute acceptable fair use under the copyright laws of tomorrow. Conversely, what does not constitute acceptable fair use today may constitute acceptable fair use tomorrow.

The review of the document by a cadre of copyright attorneys is not to be construed, or otherwise interpreted, as legal advice or a legal opinion emanating from the Missouri Bar, or any of its committee members. It is each individual's responsibility to determine

COPYRIGHT LAWS, GUIDELINES, POLICIES AND SCHOOLS

Development of this document (continued)

whether the information included in this document applies to his or her circumstances. It is always prudent to seek the advice of appropriate legal counsel specializing in copyright law for a given fact or specific situation.

Copyright laws, guidelines, and policy impact all staff members and students. Now, more than ever, publishers and owners of copyright are increasingly watchful for infringements. The financial ramifications of a law suit can be devastating to both a school district and district personnel. In addition to financial ramifications, a district must deal with the negative public relations created by this situation. As educators, the behavior modeled by staff sends a clear message to students. The lessons learned by students when copyright laws and guidelines are violated are far-reaching.

Course of action

What course of action should individual school districts follow?
Each school district should:

1. Develop a complete copyright policy to be approved by the local board of education. This policy should clearly outline the district's position for all students and educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), and other district employees. All parties should be required to comply with copyright law and guidelines. The Missouri School Improvement Program (MSIP) requires school districts to have a board approved copyright policy.
2. Establish district guidelines and procedures for the use of copyrighted materials.
3. Identify an administrator at both the district and building levels to monitor compliance with copyright law and guidelines. The monitor should NOT be a member of the building's teaching staff as this creates a "watchdog" situation and, most likely, an adversarial atmosphere. The monitor might be a superintendent, director, building principal, assistant principal, coordinator, etc.

COPYRIGHT LAWS, GUIDELINES POLICY AND SCHOOLS

Course of action (continued)

4. Organize staff development sessions to address copyright law and guidelines and the importance of compliance in the district. These inservice sessions should address the district's established copyright policy, guidelines, and procedures. A copyright inservice should be provided for all new employees of the district and refresher inservice sessions should be conducted for all staff on an annual basis.
5. Establish procedures and conduct training for students in the use of copyrighted materials which may be incorporated into their presentations and/or portfolios.

SAMPLE POLICY COMPONENTS

Copyright

_____ School District, its board of education, staff and students, shall adhere to the provisions of the current copyright laws and Congressional guidelines. Copyright is a limited monopoly granted by federal law. It is the exclusive right that protects an author, artist, composer, or programmer from having his or her work duplicated except by permission. Employees and students are to adhere to all provisions of Title 17 of the United States Code, titled “Copyrights,” and other federal legislation and guidelines related to the duplication, retention, and use of copyrighted materials.

Specifically:

1. Unlawful copies of copyrighted materials may not be produced on district-owned equipment.
2. Unlawful copies of copyrighted material may not be used with district-owned equipment, within district-owned facilities, or at district-sponsored functions.

Employee responsibilities

Employees who make and/or use copies of copyrighted materials in their jobs are expected to be familiar with and follow published guidelines regarding fair use and public display. Employees who use copyrighted materials that do not fall within fair use or public display guidelines will be expected to substantiate that the materials meet one of the following tests:

- are covered by a written licensing agreement between the copyright owner and the district,
- are being previewed or demonstrated by the user to reach a decision about future purchase or licensing and a valid written agreement exists that allows for such use,
- are a part of the public domain,
- a written agreement from the owner of copyright has been obtained for use of the materials in a classroom setting or other specified use.

SAMPLE POLICY COMPONENTS

Liability	The board of education does not sanction or condone illegal duplication in any form.
District responsibilities	<p>The district’s policy and guidelines demand adherence to copyright law. In order to accomplish this, the district has adopted:</p> <ul style="list-style-type: none">• a board-approved policy,• administrative regulations,• written guidelines,• a staff training program for copyright compliance,• a plan to inform new staff members,• a system for documentation and record keeping in case of a challenge.
Preventing infringements	<p>Copyright infringements are more likely to occur when staff are not knowledgeable about copyright guidelines. As a result, it is to the advantage of all educators and support personnel to be informed about the basics of copyright. The responsibility of explaining the policy to staff begins at the district administrative level. District administration must facilitate this process by designating personnel (copyright officer) trained in the implementation and monitoring of current copyright law and guidelines.</p> <p>It should not be the responsibility of the library media specialist to be the “copyright police” and/or to be charged with enforcing copyright law and guidelines. Any school district placing a library media specialist in this role is jeopardizing his/her effectiveness as an instructional partner.</p>
How infringements are discovered	<p>Some publishers/producers require sales representatives to report observed copyright infringements. Copyright watchdog groups use settled claims as spoils of war to advertise victories over infringement. There are copyright “bounty hunters” who make a living reporting violations. In addition, some violations are reported by former employees of the district. <i>Recognition and reporting of infringements can be as simple as a parent or school visitor noticing the violation in a school publication or at a school event.</i> While most copyright lawsuits are settled out of court, much time and money may be required to resolve the conflict, and the litigation can be embarrassing for a district.</p>

SAMPLE POLICY COMPONENTS

When an infringement occurs

The Copyright Revision Act provides remedies to the copyright holder in the case of an infringement. It also provides relief to educators who innocently infringe, believing the use to be fair. In case of an alleged infringement, any district employee can be sued, including contributory or vicarious (secondary) infringers. The principal, superintendent, or school board (anyone within the administrative hierarchy) may also be named in a lawsuit. However, the person who commits the infringement is considered the primary offender.

When an infringement of copyright is reported, the administrator or the person considered responsible for the alleged infringement may be involved in any of the following situations.

- An administrator receives a cease and desist letter from attorneys representing the copyright holder, which enumerates violations and penalties.
- An injunction may be received to prohibit the infringer from making any further use or copies of the infringed work. The infringed copies may be impounded.
- If the infringement is considered willful, penalties can be imposed up to \$100,000 per violation.
- Under certain circumstances, criminal liability may be found. If the criminal violation is a felony, revocation of the teaching certification will occur in the State of Missouri.
- First-time criminal offenders may be imprisoned and fined in addition to civil penalties.
- Legal fees and court costs may be assessed.

District procedures

When an infringement occurs, it is recommended that the alleged infringer be contacted verbally and in writing. If staff has concerns or questions about potential infringement, these procedures should be followed.

- If a teacher has a question or concern, contact the building principal.
- If a principal has a question or concern, contact the district copyright monitor/officer.
- If the copyright monitor/officer has a question or concern, contact the superintendent.

**District
procedures
(continued)**

- If the superintendent has a question or concern, contact a copyright attorney. Many school district attorneys are **not** trained in copyright law but in specialized school law.
- In the case of an allegation, the employee should contact his/her immediate supervisor. No action should be taken nor commitments made until the superintendent or designee is notified of the accusation.

**Ordering,
purchasing,
and
negotiating**

Copyright infringements may be avoided through appropriate purchasing procedures.

- When computer software is purchased with the intent to circulate to patrons, vendors should be notified of such intentions on the purchase order.
- When a district textbook is adopted, the rights to copy and/or alter material for students should be negotiated.
- When purchasing computer software, the right to copy, use in multiple machines, and/or on a network should be negotiated.
- When purchasing audio and/or video materials, public performance rights should be negotiated.

Rights for copying materials, or public performances, and any other uses, which fall outside the fair use exemption, may always be negotiated with the copyright holder. It should be confirmed that the vendor is the copyright holder or has permission to grant such uses. Permission from the copyright holder should always be secured in writing.

In other words, follow copyright guidelines, and consider them during the purchase process. Allow time to secure written permission prior to using the copyrighted materials.

COPYRIGHT LAW AND CONGRESSIONAL GUIDELINES

Copyright law	<p>The United States Congress based the original copyright law on the English version. Copyright protection is provided through wording in the U.S. Constitution. The U.S. law has been rewritten several times over the ensuing years, the last time in 1976, with minor modifications in the years since. The current American copyright law is embodied in Title 17 of the United States Code.</p>
Congressional guidelines	<p>In 1976, the copyright law (Title 17 United States Code) was amended to include the “fair use” exemptions. The text of the law was too vague to be of much help in deciding if a particular use was permitted, so the U.S. House of Representatives and Senate held hearings in an effort to determine an equitable balance between the rights of copyright owners and those of the general public.</p> <p>The hearings resulted in a set of guidelines often referred to as the “Congressional guidelines” or the “fair use guidelines.” While these guidelines are not law, they are interpreted to be the intent of Congress in enacting the law. The courts have taken this statement of intent into account when deciding cases of copyright infringement. The <i>House Report on Congressional Intent</i> was quite explicit on the amount and types of copyright that could be considered fair use.</p>
Exclusive rights of the copyright owner	<p>The owner of copyright under Sec. 106 has the exclusive rights to do and to authorize any of the following:</p> <ul style="list-style-type: none">• to reproduce the copyrighted work,• to prepare derivative works based upon the copyrighted work,• to distribute copies of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease or lending,• to perform the copyrighted work publicly,• to display the copyrighted work publicly, and• in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

COPYRIGHT LAW AND CONGRESSIONAL GUIDELINES

Infringements

Any activity that violates copyright law is an infringement. Many publishers and owners of copyright are becoming more watchful of infringements and are increasingly aggressive in the prosecution of infringers. Ethically, it is the responsibility of district employees to report potentially damaging and/or embarrassing legal situations to their supervisor.

There are two categories of infringers.

Primary: The person who violates copyright law through their actions.

Secondary: Any person who assists the primary infringer. There are two types of secondary infringers.

Contributory: A party who, with knowledge of the infringing activity, induces, causes, or materially contributes to the infringing conduct of another.

Vicarious: One person may be held liable for the infringing acts of another. In order to be held vicariously liable for the acts of another, a person must:

- have the right to control the actions of the other (even if control is not actually exercised), *and*
- receive a financial benefit, direct or indirect, from the infringement.

DIGITAL MILLENNIUM COPYRIGHT ACT OF 1998

The Digital Millennium Copyright Act (DMCA) amended the 1976 Copyright Act and was signed into law on October 28, 1998. The legislation implements two 1996 World Intellectual Property Organization (WIPO) treaties: The WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

Two of the five amendments included in the DMCA have the potential of effecting schools.

Title I

Title I includes Copyright Management Information (CMI). In an attempt to ensure the integrity of any information included with **digital works** that the owner intends to use for management purposes, the new law prohibits the removal or alteration of CMI, or the dissemination of false CMI. CMI is defined in the law to include one **or** more of the following:

- the title and other information identifying the work.
- the name and other information about the author.
- the name and other information about the copyright owner.
- the name and other information about performers, writers and directors of qualifying works.
- terms and conditions for use of the work.
- identifying numbers or symbols.
- other information which the Register of Copyrights may appropriately prescribe.

Title IV

Title IV includes Section 108 Library Exemption Update. Preservation copying is limited to archivists and library media staff and **does not apply** to other educators (e.g., administrators, classroom teachers, substitute teachers, student teachers), other district employees, volunteers, or others.

Preservation copying

Preservation copying is allowed in instances where a work:

- has been damaged,
- is deteriorating,
- has been lost or stolen and a replacement copy is not available at a fair price, or
- the format has become obsolete. Obsolescence occurs if the machine necessary to read the work is no longer being manufactured or cannot be acquired at a reasonable price in the marketplace.

DIGITAL MILLENNIUM COPYRIGHT ACT OF 1998

Title IV (continued)

The DMCA provides the following:

- a library may make up to three (3) copies of a work for preservation purposes.
 - archival copy
 - master copy
 - use copy
- the copies may be
 - print
 - electronic
 - digital
- circulation
 - The digital copy must be used on library premises. The digital copy may not be taken from the library by a patron.
 - The digital copy may be loaned to another library which owns an original copy.

GENERAL COPYRIGHT QUESTIONS AND ANSWERS

Questions	Answers
1. What is copyright?	Copyright is a limited monopoly granted by federal law. It is a property right in an original work of authorship that is fixed in any tangible medium of expression. A work is fixed when it is in a form that is permanent or stable so as to permit such work to be perceived, reproduced, or otherwise communicated from the medium of expression, whether directly or through the use of a machine or other device. It is the exclusive right that protects an author, composer, or programmer from having his or her work duplicated. The right to create a derivative work is reserved for the copyright owner.
2. If copyright is a monopoly, why do we have it?	The purpose of copyright is to encourage the development of new and original works and to stimulate their wide distribution by ensuring that their creators will be fairly compensated for their contributions to society.
3. What rights do copyright owners have?	Ownership of a book, manuscript, videotape, etc., does not give the possessor the copyright. Only the author or his/her designees can rightfully claim copyright. Section 106 of the copyright law defines six rights that are reserved exclusively for the copyright owner. <ul style="list-style-type: none">• reproduce works• prepare derivative works• distribute copies (extends only to the first sale of a copy)• perform publicly• display publicly• perform a digital audio transmission

GENERAL COPYRIGHT QUESTIONS AND ANSWERS

Questions	Answers
4. How long does the copyright last?	<p>The version of the copyright law in effect at the time the work is created or registered determines if, and how long, a work is protected. The 1909 law protected copyright holders for 28 years with an additional 28 year one-time renewal. Works created on or after 1978, were protected for the life of the author plus 50 years. In 1998, this protection was extended to the life of the author plus 70 years.</p> <p>If the work is a joint work, it is protected for the life of the last surviving author plus 70 years.</p> <p>Anonymous works, pseudonymous works, and works made for hire are protected for 95 years from the year of first publication or 120 years from the year of creation, whichever expires first.</p>
5. What can be copyrighted?	<p>Copyright covers all forms of expression as long as they are recorded in some concrete form, written on paper, recorded on tape, or coded into a computer. The works may be prose, drama, dance, music, art, or sets of electronic instructions. <i>The works do not have to have a notice of copyright to be considered protected by law. In fact, one should assume that all works created on or after January 1, 1978, are copyrighted unless shown otherwise.</i></p>
6. How do I get a copyright, and is it expensive?	<p>Any author can register a work in the Copyright Office of the Library of Congress for a fee. Registration confers some special benefits, such as being able to ask for statutory damages or attorneys' fees in case of infringement. Registration also facilitates lawsuits to defend one's copyright. <i>Whether registered or not, any work in tangible form created after January 1, 1978, is protected by copyright law.</i></p>

GENERAL COPYRIGHT QUESTIONS AND ANSWERS

Questions	Answers
7. Is there anything that can't be copyrighted?	<p>There are certain types of materials that are not entitled to copyright protection, regardless of whether they are fixed in tangible form.</p> <p>Copyright protection is not available to “any idea, procedure, process, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied.” This means that these types of materials cannot be copyrighted even if they are included in a copyrighted work (e.g., multiplication tables, a simple outline map, standard calendars, height and weight charts, tape measures and rulers, lists or tables taken from public documents or other common sources, the laws of gravity, mathematical formulas). Only an author's particular expression of those facts and ideas is protected by copyright law.</p>
8. What are the penalties if the educator willfully infringed the copyright?	<p>The copyright owner may receive substantial awards: \$500 to \$20,000 per work infringed upon and up to \$100,000 in cases of willful infringement. Under certain circumstances, if the infringement is willful and for purposes of commercial advantage or private financial gain, or if the infringement is willful and the total retail value of the infringement exceeds \$1,000 without any regard to financial motivation, criminal liability may be attached with penalties including both imprisonment and fines. If the total retail value of the infringement exceeds \$2,500, the criminal violation is a felony and, in Missouri, will result in the revocation of teaching certificate.</p>

GENERAL COPYRIGHT QUESTIONS AND ANSWERS

Questions	Answers
9. In the case of an alleged infringement, who can be sued?	<p>In the case of an infringement, the board of education, superintendent, curriculum director, principal, department head, teacher, library media specialist, and any other district employee can be sued. The person who violates the copyright law through the infringement is the primary infringer.</p>
10. Who could be involved as a contributory infringer?	<p>Two or more parties taking part (directly or indirectly) in the infringing acts may be “contributory” infringers. Contributory infringement itself is of two types:</p> <ol style="list-style-type: none">1. personal conduct that forms part of or furthers the infringement, and2. contribution of machinery or goods that provide the means to infringe. <p>A party who, with knowledge of the infringing activity, induces, causes, or materially contributes to the infringing conduct of another, may be held liable as a contributory infringer. Thus, if there is knowledge that the work in question constitutes an infringement, then one who causes another to infringe will himself be liable as an infringer.</p>

QUESTIONS AND ANSWERS

Questions	Answers
11. Who could be involved as a vicarious infringer?	<p>On occasion, one person may be held liable for the infringing acts of another person. This is called “vicarious liability.”</p> <p>One person may be held liable for the infringing acts of another. In order to be held vicariously liable for the acts of another, a person must:</p> <ul style="list-style-type: none">• have the right to control the actions of the other (even if control is not actually exercised), <i>and</i>• receive a financial benefit, direct or indirect, from the infringement. <p>NOTE: Lack of knowledge that the primary actor is actually engaged in infringing conduct is not a defense under these circumstances.</p> <p>In various circumstances, vicarious liability may be lacking because of the absence of supervision over the person performing the infringing activities or because of the absence of direct financial interest in the infringing activities. Nevertheless, third party liability may still exist via contributory infringement if the individual acts with knowledge and his/her activities aid the primary infringer in accomplishing his/her illegitimate activity.</p>

GUIDELINES FOR EDUCATIONAL USE OF COPYRIGHTED MATERIALS

Fair use Fair use grants certain types of conditional rights to use or reproduce limited amounts of certain copyrighted materials as long as the reproduction or use meets defined guidelines. The burden of proving fair use falls to the individual using the material, so thorough knowledge of copyright law and guidelines is essential. If the educator or the library covered by fair use have *specifically* agreed to a written contract detailing the use of the work, the terms of such a contract will prevail, and fair use usually will not be relevant.

Fair use exemptions Copyright law provides several instances in which reproduction of copyrighted items is permissible. These instances are considered the "fair use exemptions" and are found in Section 107 of the copyright law. In determining whether the use made of a work in any particular case is fair use, a court would apply **all** four factors together:

1. the *purpose and character* of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes;
2. the *nature* of the copyrighted work;
3. the *amount and substantiality* of the portion used in relation to the copyrighted work as a whole; and
4. the *effect* of the use upon the potential market for or value of the copyrighted work.

Basically the law is saying that Congress intends to protect the rights of the author while still allowing legitimate educational use of copyrighted material.

First sale doctrine The first sale doctrine allows the resale or loan of a copyrighted work after it is first sold, without payment of an additional fee to the copyright holder. This doctrine is at the heart of such library activities as circulation. Once a copy is lawfully acquired, the owner is entitled, without the copyright owner's permission, to sell, lease, rent, give away, or otherwise dispose of the copy.

Public domain Certain works are considered in public domain and do not receive copyright protection. Most state and federal government publications, forms, works donated by the author, and works with expired copyrights all qualify as public domain. The user must determine the status of the work through research. The journal, *Public Domain Report*, identifies works which have entered public domain.

GENERAL COPYRIGHT QUESTIONS AND ANSWERS

Questions	Answers
1. What is fair use?	<p>Fair use is the legal right to copy a <u>limited</u> amount of material under certain conditions without harm to the owner. Many educators are familiar with the term fair use without full knowledge of the meaning. They erroneously believe any materials copied or duplicated for use in the classroom are considered “fair use.” Not all copying for the purpose of teaching is considered fair use. The burden of proof for determining fair use falls to the educator using the material, so a thorough knowledge of copyright law and the appropriate guidelines is essential.</p>
2. Is there a fair use exemption?	<p>Copyright law provides several instances in which reproduction of copyrighted items is permissible. These instances are considered the “fair use exemptions” and are found in Section 107 of the copyright law. All four of the following factors must be used to determine fair use:</p> <ol style="list-style-type: none">1. the <i>purpose and character</i> of the use, including whether the use is of a commercial nature, or is for nonprofit educational purposes;2. the <i>nature</i> of the copyrighted work;3. the <i>amount and substantiality</i> of the portion used in relation to the copyrighted work as a whole; and4. the <i>effect</i> of the use upon the potential market for or value of the copyrighted work. <p>The copyright law seeks a balance between protecting the rights of the author while still allowing the use of copyrighted materials for educational and research purposes.</p>

PRINT MATERIAL

Under copyright law, educators have a fair use right to make single or multiple copies of copyrighted print materials for research, lesson preparation, or use in teaching as specified below. In general, a reasonable guide for copying a portion of a work is ten (10) percent.

Single copy

A *single* copy may be made of any of the following by or for an educator at his or her individual request for his or her scholarly research or use in teaching or preparation to teach a class:

- a chapter from a book,
- an article from a periodical or newspaper,
- a short story, short essay, or short poem, whether or not from a collective work,
- a chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

Multiple copies

Multiple copies (not to exceed, in any event, more than one copy per pupil in a course) may be made by or for the educator teaching the course for classroom use or discussion, provided that:

- the copying meets the tests of brevity and spontaneity as defined below; and,
- meets the cumulative effect test as defined below; and,
- each copy includes a notice of copyright.

Brevity

Poetry: A complete poem if less than 250 words and if printed on not more than two pages or, from a longer poem, an excerpt of not more than 250 words. This may be expanded to permit the completion of an unfinished line of a poem.

Prose: (a) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or ten (10) percent of the work, whichever is less, but in any event a minimum of 500 words. This may be expanded to permit the completion of an unfinished prose paragraph.

Illustration: One chart, graph, diagram, drawing, cartoon, or picture per book or per periodical issue.

PRINT MATERIAL

Brevity (continued)

Special works: Certain works in poetry, prose or in “poetic prose” which often combine language with illustrations and which are intended sometimes for children (e.g., picture books) and at other times for a more general audience fall short of 2,500 words in their entirety.

Special works may not be reproduced in their entirety; however, an excerpt comprising not more than three of the published pages of such special works and containing not more than ten (10) percent of the words found in the text thereof, may be reproduced.

Spontaneity

In order to meet the fair use test of spontaneity, the inspiration and decision of the individual to use the work and the time of its use (for maximum teaching effectiveness) are so close together, that it would be unreasonable to expect a timely reply to a request for permission.

Cumulative effect

The following copying meets the fair use test of cumulative effect.

1. Copying the material for only one course in the school in which the copies are made.
2. One short poem, article, story, essay or two excerpts may be copied from the same author.
3. Three short poems, articles, stories, essays or excerpts from the same collective work or periodical volume may be copied during one class term.
4. A limit of nine instances of multiple copying for one course during one class term.

Note: Items 2 and 3 do not apply to current news periodicals and newspapers and current news sections of other periodicals.

PRINT MATERIAL

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may:**
- display a copyrighted work using projection equipment such as an opaque, overhead, or other device,
 - make a transparency of a chart, graph, etc., if it is in accordance with the limitations of fair use,
 - use projection equipment to enlarge an image from a print source onto a poster. The enlargement may be created and displayed one time only. It **must** then be destroyed.
 - create a poster, photograph, or slide of a print image. Such use is limited to one time only. It **must** then be destroyed.

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may not:**
- copy to avoid purchase of materials,
 - copy from consumable materials (workbooks, activity books, exercises, standardized tests, answer sheets, etc.),
 - make illegal copies on direction from higher authority (supervisor, coordinator, principal, etc.),
 - copy the same item from term to term (class term),
 - copy more than nine items in multiples for one course during one class term,
 - copy more than one entire work or two excerpts written by the same author in any one term,
 - use materials copied by another educator without securing separate written permission from the original copyright holder,

PRINT MATERIAL

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may not:
(continued)

- copy to create, replace or substitute for anthologies, compilations or collective works or to substitute for them in lieu of purchase,
- copy protected materials without inclusion of a notice of the copyright which appears on the printed copy,
- make multiple copies for a class of students unless the restrictions governing quantity and spontaneity are followed,
- charge students more than the actual cost of the authorized copies,
- extend the life of a worn ditto master by thermal or xerographic process,
- alter a copyrighted image (cartoon, graph, chart, photograph, diagram, etc.) by modifying the original to create a derivative work,
- copy picture books in their entirety (only three pages may be copied as long as those three pages do not comprise more than ten (10) percent of the text of the picture book,
- copy the same item for more than one course. Copies may be made for each section of the course,
- copy more than three items from the same periodical volume during one class term,
- translate print material from one language to another.

PRINT MATERIAL QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
1. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others enlarge or reduce an image (cartoon, chart, diagram, graph, picture, or drawing) for the purpose of display (bulletin board, handout, flyer, scrapbook, wall decoration, etc.)?	<p>Yes The educator may use equipment such as an opaque, overhead, video projector or copy machine to adapt by enlarging or reducing an image for the purpose of display. Such use is limited to a one-time use unless permission from the copyright holder for subsequent use is obtained. The adapted image must be destroyed after the one-time use.</p> <p>Note: If the educator wishes to use (display) the same image a second time, he or she must obtain permission from the copyright holder.</p>
2. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others alter an image (cartoon, chart, diagram, graph, picture, or drawing) for the purpose of display or decoration (bulletin board, handout, flyer, scrapbook, etc.)?	<p>No The educator may not use equipment such as an opaque, overhead, video projector, or copy machine to alter by either adding to or cutting out a portion of the original copyrighted image.</p> <p>Note: Only the copyright owner has the right to create a derivative work by altering the image.</p>

PRINT MATERIAL QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
3. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others hand draw or electronically draw a copyrighted character, and use it to decorate the classroom, hallway, etc.?	<p>No If the character is identifiable as a copyrighted character, it may not be used.</p> <p>Note: Since this type of material is available for purchase, copying could avoid purchase and, therefore, deprive the copyright owner of a sale.</p> <p>Drawing would be an alteration rather than an exact copy.</p>
4. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others make one copy per pupil of an <u>unlimited</u> number of images (cartoon, chart, diagram, graph, picture, or drawing) from a single book or periodical issue to use in face-to-face instruction ?	<p>No Guidelines state a limit of one image per book or per periodical issue may be copied for each student in the class. These copies, which must include the copyright notice, may be made and used only one time.</p> <p>Note: If the educator wishes to use the same image the next semester, year, etc., he or she must obtain copyright permission.</p>

PRINT MATERIAL QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
<p>5. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others presenting to a group of peers, make a copy of one image (cartoon, chart, diagram, graph, picture or drawing) from a single book or single periodical issue to distribute to each person attending the presenter's inservice or conference workshop?</p>	<p>Yes If the inservice or conference workshop presentation is non-commercial and the honorarium is not in excess of the presenter's cost, the distribution of one image from a single book or from periodical issue to each attendee is allowable. The image should support the presentation topic.</p> <p>Note: If the educator wishes to use the same image in subsequent presentations, he or she must obtain permission from the copyright holder.</p>
<p>6. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others make a transparency of one image (cartoon, chart, diagram, graph, picture, or drawing) from a single book or periodical issue to use in face-to-face instruction of students or peers?</p>	<p>Yes An educator may copy one image onto a transparency making an exact copy to display with the use of a projection device. The transparency may be used one time in face-to-face instruction.</p> <p>Note: If the educator wishes to use the same image in subsequent presentations, he or she must obtain permission from the copyright holder.</p>
<p>7. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others enlarge text and/or images from a trade book or textbook for a <u>visually impaired</u> student?</p>	<p>Yes This activity is allowed only for visually impaired students with medical proof of the impairment.</p>

PRINT MATERIAL QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
8. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others create a photograph or slide of a print image (cartoon, chart, diagram, graph, picture, or drawing)?	<p>Yes Creating a photograph or slide from a print image is not different than using the image in an opaque projector. No derivative work is created. The image, in this case, is being projected and/or viewed in its original form and cannot be altered in any way. However, such use is limited to one time.</p> <p>Note: If the educator wishes to use (display) the same image a second time, he or she must obtain permission from the copyright holder.</p>
9. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others make copies of a workbook or a standardized test?	<p>No Workbooks, exercises, standardized tests, test booklets, and answer sheets are consumable materials. Under copyright guidelines, their reproduction is not fair use. Copying is never allowed to avoid purchase.</p>
10. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others copy the same materials for more than one section of the same course?	<p>Yes If an educator has multiple sections of the same course, copies may be made for all sections during one school term.</p> <p>Note: If an educator wishes to use the same material for a different course, he or she must obtain permission from the copyright holder. Copying for the second course would violate the cumulative effect guideline. The educator may however, post the original article for any other classes to view.</p>

PRINT MATERIAL QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
11. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others copy material for the fall semester and copy the same material again for the spring semester (term-to-term)?	<p>No If the material copied in the first semester was valuable enough to repeat, the educator would have adequate time to obtain permission. Copying a second time would violate the guideline for spontaneity.</p> <p>Note: If the educator wishes to use the same material in subsequent terms, he or she must obtain permission from the copyright holder.</p>
12. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others disregard copyright guidelines if the copying is needed to accomplish the objectives identified in the curriculum guide adopted by the school board?	<p>No An educator may not disregard copyright guidelines even when it is directed by a person in a position of higher authority or by a document created and/or sanctioned by persons of higher authority.</p> <p>Note: Sufficient time should be available to obtain permission as curriculum guides are usually written in advance. This copying would violate the test of spontaneity.</p>

PRINT MATERIAL QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
13. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others make <u>unlimited</u> , multiple copies of any prose work?	<p>No The following guidelines must be met.</p> <ul style="list-style-type: none">• one copy per student per course• test of brevity• test of spontaneity• test of cumulative effect• copyright notice included <p>*Brevity tests</p> <p>A complete article, story or essay of less than 2,500 words may be copied in its entirety.</p> <p>If the article, story, essay, or any other prose work is longer than 2,500 words, an excerpt of not more than 1,000 words or ten (10) percent of the work, whichever is less may be copied, but in any event, a minimum of 500 words must be copied. The number of words may be expanded to permit the completion of an unfinished prose paragraph.</p> <p>*Brevity examples</p> <p>Example: The <u>complete</u> article, story, or essay is 2,500 words or less. The educator may copy the entire article.</p>

PRINT MATERIAL QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
13. continued	Brevity examples continued
May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others make <u>unlimited</u> , multiple copies of any prose work?	Example: The <u>complete</u> article, story, essay, or any other prose work is 9,000 words in length. The educator may copy ten (10) percent (900 words) or 1,000 words whichever is less. Therefore, in this example the educator may copy 900 words.
	Example: The <u>complete</u> article, story, essay, or any other prose work is 30,000 words in length. The educator may copy ten (10) percent, (3,000 words) or 1,000 words whichever is less. Therefore, in this example the educator may copy 1,000 words.

STUDENT

PRINT MATERIAL QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers	
15.	May a student copy, enlarge, reduce but not alter an <u>unlimited</u> number of images (cartoon, chart, diagram, graph, picture, or drawing), from a print source to create a final print product (e.g., bulletin board/display, brochure, flyer, scrapbook, portfolio, mural, diorama, term paper, etc.)?	No	Only a <u>limited</u> number of images may be copied, but not altered as long as: <ul style="list-style-type: none">the user adheres to the <i>brevity</i> guidelines. Only one of the following may be copied from a single book or periodical issue: one chart, graph, diagram, drawing, cartoon or picture <i>and</i>the source of the image is cited within the product. <p>Note: The final print product must be a class assignment or personal portfolio and the essence of the original image may not be destroyed.</p>
16.	May a student or group of students script and dramatize a poem, prose (nondramatic literary work) in a classroom setting?	Yes	However, public performance outside the classroom would require permission from the copyright holder because non-class members could be present.

MUSIC

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may:

- edit in order to simplify purchased sheet music as long as the work is not distorted or lyrics altered or added. Copies may not be made of the edited or simplified work,
- make emergency copies of legally owned performable units when needed for immediate performance. A single copy of each part needed to perform the musical work would be considered a performable unit. These copies **must** be destroyed after the performance,
- make a single copy of a performable unit when music is out of print or unavailable. A single copy of each part needed to perform the musical work would be considered a performable unit,
- make a single copy of a copyrighted sound recording for use in constructing aural exercises or examinations. The recording may be retained by the educational institution or individual teacher,
- make a single copy of a recording of student performances **only** for evaluation or rehearsal purposes. The recording may be retained by the educational institution or individual teacher.

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may not:

- copy to avoid purchase,
- copy music for performance except when emergency copies are needed,
- copy without including copyright notice,
- copy to create, replace, or substitute for anthologies, compilations or collective works,
- copy consumable materials (workbooks, exercises, standardized tests and answer sheets, etc.).

PUBLIC PERFORMANCE OF MUSIC

The public performance of music, for profit or non-profit, is a copyright infringement unless licensed. Certain unlicensed performances of copyrighted music in schools, libraries, churches, or other nonprofit situations are not infringements.

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may allow:

- performance of a work by instructors or pupils:
 - in face-to-face teaching activities,
 - of a nonprofit educational institution,
 - in a classroom or similar place (such as the library) devoted to instruction,
 - in the case of an audio-visual work, when the copy (e.g., audio or videotape) was lawfully made,
- performance of a nondramatic literary work or musical work in the course of a transmission if:
 - the performance is a regular part of the systematic instructional activities of a non-profit educational institution *and*
 - the performance is directly related and of material assistance to the teaching content of the transmission *and*
 - the transmission is primarily for:
 - classroom or similar places devoted to instruction, e.g., library *or*
 - the home-bound *or*
 - reception by officers or employees of governmental bodies as part of their duty or employment,
- performance of a nondramatic literary work or musical work or dramatic-musical work of a religious nature in the course of service or in a place of worship or religious assembly,

PUBLIC PERFORMANCE OF MUSIC

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

**may allow
(continued):**

- performance of a nondramatic literary work or music (other than in a transmission to the public) without any purpose of direct or indirect commercial advantage and without payment to any performers, promoters, or organizers if:
 - there is no direct or indirect admission *or*
 - the proceeds are used exclusively for educational, religious, or charitable purposes, except if the copyright owner (having been given notice) objects seven days in advance in writing.

MUSIC QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
1. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others make copies of sheet music for student use?	<p>No This not allowed under fair use guidelines.</p> <p>Note: In an emergency situation for <u>immediate</u> performance, legally owned music may be used to make copies. These copies must be used immediately and must be destroyed after the performance.</p> <p>A single copy of each part needed to perform the musical work would be considered a performable unit.</p>
2. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others duplicate a copyrighted song(s) from a phonograph record and/or CD onto a cassette tape?	<p>No This would create a derivative work which is reserved for the copyright owner.</p>
3. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others create a video/audio recording of a student performance for later use with students?	<p>Yes The educator or the institution may record and retain a copy of the performance only if the recording is used for <u>evaluation</u>, <u>critique</u>, or <u>rehearsal purposes</u>. It may not be copied and distributed.</p>

MUSIC QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers
4.	May a school and/or a parent group tape record (video and audio) a student performance using copyrighted music (e.g., talent show) for fund raising purposes?	<p>No This violates copyright law.</p> <p>Note: A <u>videotape</u> recording (no audio included) may be made. This product may be sold because it does not contain the audio portion of copyrighted music.</p> <p>It is recommended that written parental permission be obtained for each child appearing in the videotape.</p>
5.	May a copy of a tape recording (video and audio) of a student performance using copyrighted music be cataloged and circulated through the library media center?	<p>No This would not be allowed because it would create a duplicate of copyrighted work.</p> <p>Note: If the audio portion of the performance is not included, this would be allowed.</p>
6.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others make a new arrangement of a popular song and make photocopies for the chorus?	<p>No The fundamental character of the underlying work has been changed. This would be a derivative work.</p>
7.	May the school chorus, band, orchestra, etc. give a free annual concert open to the public?	<p>Yes This is permissible if the works to be performed are purely musical, the concert is given without any purpose of commercial advantage, and the students are not paid.</p>

MUSIC QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers
8.	May the school chorus, band, orchestra, etc., give a concert open to the public and charge admission?	Yes Admission may be charged if the proceeds benefit the educational purpose <i>and</i> the copyright owner is given notice <i>and</i> doesn't file an objection.
9.	May a school district transmit a live, videotaped, or audio taped student performance (e.g., Spring Music Concert, half-time during the football game, etc.) containing copyrighted works over a public access channel?	<p>No The transmission would be interpreted as a public performance. Section 110 of the Copyright Law allows transmission only if all of the following conditions are met.</p> <ul style="list-style-type: none"> • the performance is a regular part of the systematic instructional activities of a non-profit educational institution <i>and</i> • the performance is directly related and of material assistance to the teaching content of the transmission <i>and</i> • the transmission is primarily for: <ul style="list-style-type: none"> • classroom or similar places devoted to instruction, e.g., library <i>or</i> • the home-bound <i>or</i> • reception by officers or employees of governmental bodies as part of their duty or employment. <p>Note: Public performance and broadcast rights must be obtained from the copyright holder <u>before</u> transmission.</p>

STUDENT

MUSIC QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
10. May students <u>perform</u> a routine or program (e.g., cheerleader squad routines, talent shows, assemblies, lip sync contests, sports events, etc.) using copyrighted music during school functions?	<p>Yes This is permissible if:</p> <ol style="list-style-type: none">1. the performance is given without any purpose of commercial advantage;2. the students are not paid; and either3. (a) there is no direct or indirect admission charge; or (b) if there is an admission charge, the proceeds are used exclusively for educational purposes and not for private gain and the copyright owner is given notice and doesn't file an objection. <p>Note: If admission is charged for an event, all activities associated with that event are included in the admission (e.g., cheerleader squad routines during the basketball game). The associated activity (e.g., cheerleading squad routine) would be considered an indirect activity, therefore, 3b applies.</p>
11. May a student performance including copyrighted music with public performance rights be videotaped and broadcast for purposes other than instruction?	<p>No Public performance rights, included with the purchase of printed music, do not include broadcast rights. Broadcast rights must be purchased or negotiated with the copyright owner.</p>

AUDIO-VISUAL MATERIAL

Audio-visual materials include, but are not limited to, filmstrips, slides, mixed-media kits, motion pictures (e.g., 16mm, VHS, DVD), video games (e.g., Sega, Nintendo), laserdiscs, and sound recordings (in all formats).

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may:

- duplicate audio materials of a nondramatic literary work to provide materials for students with disabilities, such as Learning Disabilities (LD) and visual impairments with medical proof of their impairment. However, if an audio tape is already available for purchase, it is not clear whether such duplication is permissible. A school district would want to consult with an attorney prior to undertaking such a duplication under such circumstances.
- make preservation copies only for damaged, deteriorating, lost or stolen materials that cannot be obtained at a fair price or the format has become obsolete. (Digital Millenium Copyright Act, 1998).

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may not:

- use the materials for reward, entertainment, or time-filler.
- transmit the materials unless transmitted for the home-bound.
- copy radio excerpts to an audio tape for use in a classroom,
- tape the audio and/or video portion of a television documentary for use in the classroom,
- read a story from a trade book or textbook onto an audio tape for any reason except to assist the visually impaired,
- make a copy of copyrighted originals owned by another school within or outside the school district,
- duplicate copyrighted materials obtained from the publisher for preview or evaluation,

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

**may not
continued**

- create a derivative work by altering the original format,
- make a back-up (archival) copy of audio-visual material regardless of format.

AUDIO-VISUAL MATERIAL QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
1. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others assume that public performance rights are included in the price of the material?	<p>No An educator should <u>not</u> assume that public performance rights are included in the purchase price.</p> <p>Note: If the company provides documentation indicating public performance rights are included in the listed purchase price, a copy of the statement should be maintained in a public performance rights file.</p>
2. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others read a trade book or textbook to create a cassette tape for a student with a learning disability <u>other than</u> visual impairment?	<p>Yes An educator may duplicate audio materials of a nondramatic literary work to provide materials for students with disabilities, such as Learning Disabilities (LD) and visual impairments with medical proof of their impairment.</p> <p>Note: However, if an audio tape is already available for purchase, it is not clear whether such duplication is permissible. A school district would want to consult with an attorney prior to undertaking such a duplication under such circumstances.</p> <p>Note: If an audio cassette tape is available for purchase, consider quality. The quality of the commercial recording will be far better than most schools can produce.</p>

AUDIO VISUAL MATERIAL QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
3. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others read and translate a work into a student's native language and create an audio tape?	<p>No Translation of print materials from one language to another or to an audio format creates a derivative work. This is the exclusive right of the copyright owner.</p> <p>Note: Permission to change print materials to audio format must be requested from the copyright owner.</p>
4. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others create an audio tape or Braille book from a trade book or textbook for a <u>visually impaired</u> student?	<p>Yes An educator may duplicate audio materials of a nondramatic literary work to provide materials for students with disabilities, such as Learning Disabilities (LD) and visual impairments with medical proof of their impairment.</p> <p>Note: However, if an audio tape is already available for purchase, it is not clear whether such duplication is permissible. A school district would want to consult with an attorney prior to undertaking such a duplication under such circumstances.</p> <p>Note: If an audio cassette tape is available for purchase consider quality. The quality of the commercial recording will be far better than most schools can produce.</p>

AUDIO VISUAL MATERIAL QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

4. Continued

May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others create an audio tape or Braille book from a trade book or textbook for a visually impaired student?

Note: Braille materials: In September 1996, an amendment to the National Information Infrastructure Copyright Bill was passed. This amendment allows visually impaired readers access to newly published books and other previously published nondramatic literary works. These works may be reproduced and distributed in *specialized formats for the visually impaired* without the need to obtain permission from the copyright holder.

VIDEOTAPES

Under certain conditions educators may use copyrighted videotapes in the classroom for face-to-face instruction. **Classroom or school-wide use of videotapes for entertainment or reward is specifically prohibited unless public performance rights have been obtained.**

The following information applies to videotapes produced commercially and sold for purchase or rent. Individual school districts have the right to limit or prohibit the use of videotapes.

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may:

- allow use of a videotape if used by a guest lecturer or by a pupil as part of teaching activities,
- use a videotape only with students directly involved with a teaching activity,
- use a videotape accessed through an educational institution's electronically secured network (network), provided there are technological protection measures (TPM) (e.g., passwords, encryption) to the network and it meets the face-to-face instruction exemption,
- use a videotape only in a nonprofit educational institution,
- use a videotape only if it is lawfully made,
- use a videotape in a classroom or any other area devoted to instruction,
- show segments of a videotape. The videotape need not be shown in its entirety as long as the original content is not altered,
- use any legally obtained video in face-to-face instruction, even though labeled **for home use only**. The tape must be incorporated as a part of the systematic teaching activities of the subject for which it is being used.

VIDEOTAPES

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may not:**
- show any copyrighted videotape for entertainment, fund-raiser, or time-filler. These situations would qualify as a public performance which would require the purchase of a license or permission from the copyright owner,
 - duplicate a copyrighted videotape for any reason,
 - circumvent anti-copying mechanisms embedded in copyrighted works.

Librarians

- may:**
- loan videotapes in the collection to students for home viewing,
 - distribute a videotape through an educational institution's electronically secured network provided there are technological protection measures (TPM) (e.g., passwords, encryption) to the network and it meets the face-to-face instruction exemption,
 - duplicate videotapes to include closed captioning of a nondramatic literary work in order to provide materials for the hearing impaired.

Librarians

- may not:**
- make an archival copy of a copyrighted videotape,
 - make an archival copy of a locally-produced videotape containing copyrighted materials.

Closed captioning

The Congressional discussions on the Copyright Revision Act of 1976, stated that the legislative intent of the law was to *specifically allow the making of a working copy with closed captioning in an institution serving the hearing impaired*, as long as the copy stayed within the institution requiring it. However, the copy may also be shared among other institutions serving hearing-impaired populations.

OFF-AIR TAPING

For the purpose of this section, off-air is defined as television programs provided WITHOUT CHARGE by local television stations for reception by the general public (e.g., ABC, NBC, CBS, etc.). Public Broadcasting Service (PBS) has obtained extended rights for educators to tape and have free access to some off-air programs for a stated period of time. For specific information, contact the local PBS station.

Accurate records of all programs taped off-air should be maintained. Records should include the date the program is taped and the date the program is to be erased. The program **must** be erased on the forty-sixth (46th) calendar day after the date of taping.

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may:

- use programs recorded off-air in the classroom in a nonprofit educational institution. The taping may only occur at **the teacher's request** and may only be shown during the **first ten** (10) consecutive school days following the broadcast of the program.
- retain (but not show to students) off-air tapes for a period not to exceed forty-five (45) consecutive calendar days following the date of recording. The recording must be erased on the forty-sixth (46th) day.
- use off-air tapes in the course of teaching activities and repeat the use only once when instructional reinforcement is necessary. The second showing for reinforcement must also take place in the first ten (10) consecutive school days.
- show segments of an off-air tape. The tape need not be shown in its entirety as long as the original content is not altered.
- request and use recordings of programs from local instructional television (ITV) or other service providers for which the district has paid membership.

OFF-AIR TAPING

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may continued:**
- request and use only those recordings of cable and satellite programs that have been designated and cleared for educational use,
 - use programs recorded off-air with all class sections within the course for which it was requested.

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may not:**
- show an off-air tape to students after the tenth (10th) school day,
 - request off-air taping of the same program title more than one time, regardless of the number of times the program may be re-broadcast. If the teacher wishes to use the program in the future, a commercial copy of the program must be purchased.

Librarians

- may not:**
- record programs in anticipation of an educator's request,
 - tape a single program more than once at the request of the same educator no matter how many times the program is broadcast.

CABLE / SATELLITE TAPING

Fair use guidelines do not automatically apply to cable/satellite channels. The user must determine if any reproduction rights apply on a program by program basis. The user should check with cable/satellite providers or publications to determine use rights.

Selected cable/satellite channels have obtained extended rights for educators to videotape some programs and to have access to their programs for a stated period of time. For specific information concerning extended rights, contact the local cable/satellite provider.

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may not:

- videotape and/or use programming from broadcast networks such as HBO, Showtime, etc. The programming is fee based (not free of charge) and may not be used without payment.

VIDEOTAPE/OFF-AIR TAPING/CABLE/SATELLITE TAPING QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
1. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others record programs off-air at home to be used in face-to-face instruction?	<p>Yes The location of the taping does not affect copyright, providing the guidelines are followed and the tape is used in face-to-face instruction to support the curriculum within the ten (10) school day limit.</p> <p>Note: The tape may be retained for evaluation for a total of 45 calendar days from the original taping date. The videotape must be erased on or before the 46th day.</p>
2. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others record cable/satellite programs at home to be used in face-to-face instruction?	<p>Yes Some programs and/or channels allow taping rights for face-to-face instruction. The location of the taping does not affect copyright, providing the guidelines are followed.</p> <p>Note: Taping should occur <u>only</u> after the rights have been determined for <u>each</u> program.</p>

VIDEOTAPE/OFF-AIR TAPING/CABLE/SATELLITE TAPING QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
3. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others rent or purchase home use only videotapes from local stores for repeated use in face-to-face instruction?	<p>Yes Repeated use of legally acquired videotapes may be used for face-to-face instruction regardless of the source.</p> <p>Note: Each video rental store has specific contractual agreements regarding videotape use in schools. Be sure to read the contract carefully to determine specific rights of use.</p> <p>CAUTION: Videotapes may not be used for reward, entertainment, fund-raisers, time-fillers, etc. They may be used to support curriculum in face-to-face instruction. The instructional use should be documented in curriculum guides and/or written lesson plans.</p>
4. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others show a rented, purchased, student-owned, or personally-owned videotape for reward, classroom party, fund-raiser, entertainment or incentive?	<p>No Videotapes may be used in face-to-face instruction and should be documented in the educator's current instructional objectives that support the curriculum.</p> <p>Note: Public performance rights must be obtained in order to use a videotape for reward, classroom party, fund-raiser, entertainment or incentive.</p> <p>There are commercial providers that sell public performance licenses that allow the use of videos for reward, entertainment, etc.</p>

VIDEOTAPE/OFF-AIR TAPING/CABLE/SATELLITE TAPING QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
5. May a videotape be used for before and after school day care or for child care during meetings and school events?	<p>No This situation does not meet the face-to-face instruction requirement.</p> <p>Note: If videotapes are to be used for this purpose, public performance rights must be obtained.</p> <p>There are commercial providers that sell public performance licenses that allow the use of videos for reward, entertainment, etc.</p>
6. May a videotape be used by a person not employed by the district (room parent, volunteer, etc.) for entertainment during the school day (holiday party, special event, etc.)?	<p>No This situation does not meet the face-to-face instruction requirement.</p> <p>Note: If videotapes are to be used for this purpose, public performance rights must be obtained.</p> <p>There are commercial providers that sell public performance licenses that allow the use of videos for reward, entertainment, etc.</p>

VIDEOTAPE/OFF-AIR TAPING/CABLE/SATELLITE TAPING QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers
7.	May a school-owned videotape purchased with public performance rights be shown as a fund-raising activity?	<p>Yes The videotape may be shown if all three of the following conditions are met:</p> <ol style="list-style-type: none"> 1. the proceeds directly benefit the educational program <i>and</i> 2. the copyright owner is given notice <i>and</i> 3. the copyright owner does not file an objection.
8.	May a videotape be shown in a non face-to-face instructional area where other students may also freely view the program?	<p>No Only those students enrolled in the class for which the videotape was assigned may/should view the videotape.</p>
9.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others make or request that a videotape be made which uses segments from several videotapes to teach a particular concept?	<p>No Segments may not be copied onto a single videotape as this creates an anthology or collection.</p> <p>Note: Individual segments from several different videotapes may be shown. The entire videotape need not be shown.</p>

VIDEOTAPE/OFF-AIR TAPING/CABLE/SATELLITE TAPING QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
10. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others add an off-air tape to the library's permanent videotape collection?	<p>No A program may be held in the library for use according to the rights granted by the broadcast network but should not be added as part of the library's <u>permanent</u> collection unless extended rights are available.</p> <p>Note: If extended rights have not been secured, the off-air tape must be erased on the 46th day.</p>
11. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others show a program taped off-air over a two-or three-day period or show excerpts of the program?	<p>Yes As long as the program is used in face-to-face instruction, it may be used once within the ten (10) school days after taping and repeated only one time when reinforcement is needed. Excerpts may also be used provided the recorded program is not altered from its original content and is also shown within ten school days of the taping. Both examples above must also take place in the first ten consecutive school days.</p>
12. May an educator, substitute teacher, or student teacher repeat their request for the off-air taping of a program previously recorded for use in face-to-face instruction?	<p>No The teacher may not request that the program be taped again regardless of the number of times it may be re-broadcast.</p> <p>Note: If the teacher wishes to use the program in the future, a commercial copy of the program must be rented or purchased.</p>

VIDEOTAPE/OFF-AIR TAPING/CABLE/SATELLITE TAPING QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers	
13.	May an educator, substitute teacher, or student teacher request the off-air taping of a program previously requested and used by <u>other</u> teachers in the building?	Yes	If the teacher making the request has not <u>used</u> the program before, this is allowed.
14.	May an educator, substitute teacher, or student teacher make a request for an off-air taping of a program they have previously used even though they did not originally request the taping?	No	If the teacher wishes to repeat the <u>use</u> of the program, a commercial copy of the program must be rented or purchased.
15.	May an educator, substitute teacher, or student teacher make an off-air taping of a television documentary to be used in face-to-face instruction?	No	Information concerning the purchase of a documentary is given at the end of the broadcast. Documentaries are the product of many years work by individuals with a particular interest and dedication to a specific topic.
		Note:	Many times the information included in a broadcast schedule will indicate if the program is classified as a documentary.

COMPUTER SOFTWARE

Most software is copyrighted and governed by some type of license agreement. The purchaser obtains the right to use the software as described by the license. It is important to read the license agreement each time a software package is purchased and to understand the rights which have been purchased. There are two situations in which copies of software programs may be made:

1. copying the software onto the hard drive in order to run the program.
2. making an archival copy of the program. The copy of the software may be used and the original becomes the archival copy.

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may:

- install copies of a software program in accordance with the purchased license agreement. The license limits the number of workstations on which the program may be installed,
- make a copy provided that the making of the copy is an essential step in using the program (installing software on a hard drive in order to use the program).

COMPUTER SOFTWARE

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may not:**
- copy a single-user licensed program onto more than one computer hard drive,
 - transfer a program through a local- or wide-area network unless authorized to do so by purchase of agreement or license with the copyright owner,
 - make multiple copies of a single-user licensed program unless the building or district has acquired the rights,
 - make multiple copies of a program to be sold, leased, loaned, transmitted, or given away to any other user,
 - install a software upgrade of a computer program as an additional copy on another machine. The upgrade must be used to replace or enhance the original version of the same machine.

Librarians

- may:**
- lawfully make one archival copy of a copyrighted program to be retained in the library,
 - duplicate the archival program only if the circulating copy has been damaged or destroyed,
 - circulate computer software if such intended use was stated on the purchase order and does not violate any licensing agreements with the copyright owner. Each copy of a program that is placed in circulation must be labeled with a copyright warning notice,
 - note their intent to circulate the software on purchase orders. The language could read, "Purchase is ordered for library circulation and patron use." All machines capable of duplication should be posted with the copyright warning notice.

COMPUTER SOFTWARE

School districts

may not:

- copy data from a CD-ROM or disk to a large hard drive on a network unless specifically permitted in the license agreement,
- provide external access to CD-ROM data to users other than students and faculty unless negotiated in the licensing agreement.

SOFTWARE DOCUMENTATION

Even though printed documentation is not part of the electronic program, it is also protected under software copyright. Archival copies are permitted, but multiple copies for classroom distribution are not acceptable *unless specific permission has been obtained*. When negotiating licenses, request additional copies or permission to reprint portions of the documentation as necessary.

SOFTWARE LICENSING

Licenses and contracts

The purchase of most software is governed by a license agreement as well as by copyright law. Licenses and contracts for computer software and CD-ROMs are similar. In some cases, school districts can negotiate terms of software licenses or may enter into a contract with the copyright owner for certain uses of the software. Networking a piece of computer software or CD-ROM always requires a license. Users should be aware of contract specifications because contract law supersedes copyright law.

Most software is actually licensed rather than sold and the first-sale doctrine is not applicable. Restrictions on lending and rental contained in the license agreement would apply. Site and network licenses are usually separate agreements provided by the license. It is assumed that the license is, in fact, a binding contract.

SOFTWARE LICENSING

Licenses may be found in various locations included with purchased software. Shrink-wrap licenses refer to the software packaging that is often wrapped in clear plastic through which the terms of the license are visible. Licenses may also be located in the documentation manual and/or electronically within the software.

Terms and conditions of license agreements vary greatly between software vendors and sometimes between programs created by the same producer. Sometimes agreements will contain restrictions that do not follow fair use guidelines. Users need to remember that signing and returning the agreement is binding. Users may always negotiate with the vendor for additional rights through the agreement.

Shareware

Another caution concerning computer software rights involves “shareware.” Shareware means that the author or copyright holder has elected to distribute the software through a try-it-before-you-buy-it method. Shareware software is available through the same channels as public domain software; but, once the software has been used and evaluated, the user is expected to register the software and pay a fee for the program. If users of shareware fail to register and pay for the software they retain and use, this method of software distribution may likely disappear.

COMPUTER SOFTWARE QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers	
1	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others install the software needed to run a CD-ROM on multiple machines when one single-user license is owned?	No	Software necessary to access the CD-ROM product may be installed on only one machine per single-user license.
2.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others who owns a legal copy of a software program that is installed on their home computer install a copy of this program on a school owned computer?	No	A single-user license allows the installation of the software on only one machine unless otherwise specified. Note: Installation may occur only if the license specifically allows the simultaneous installation of the software in both locations.
3.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others make a copy of single-user licensed software for archival purposes (back-up copy)?	Yes	The <i>original</i> and one <i>use copy</i> may exist simultaneously, but only one of the above (<i>original</i> or <i>use copy</i>) may be utilized at any one time. Note: In the event the <i>use copy</i> is damaged or destroyed, another <i>use copy</i> may be created from the <i>original</i> (archival). It is usually recommended by software companies that the <i>original</i> software be archived for safekeeping.

COMPUTER SOFTWARE QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers	
4.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others make a copy of a single-user licensed software program to share with others?	No	This avoids the purchase of an additional license, therefore depriving the copyright holder of potential profit.
5.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others assume the district has a district license for all software?	No	Do not assume a district owns a site license. Note: If your building does not have a list of district licensed software, contact the department responsible for maintaining license agreements for software purchases.
6.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others purchase and install an upgrade version of an existing software program and use it as a separate program?	No	An upgrade is intended to add features to the original software program. At no time should two versions of the same software program be installed on the same or separate machines unless individual licenses have been purchased.

DATABASE DOWNLOADING

Downloading from a database involves transferring a copy of the information from the original source to an on-site storage device. The information may be saved for searching, manipulation, or printing.

Note: Always read the license agreement. Users should be aware of contract specifications because contract law supersedes copyright law. In the absence of a license agreement, print guidelines should be applied to downloaded material.

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may:

- download bibliographic citations or the full text of a document identified during a search of an on-line, commercial, or CD-ROM database (EBSCO, SIRS, DIALOG, etc.) as stated in the terms of the license agreement with the vendors,
- use downloaded material for individual research.

DOWNLOADING QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers	
1.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others download an article from a database and make a copy for each student in the class?	Yes	A copy for each student may be made and used one time if it includes the copyright notice.
		Note:	If the educator wishes to use the article a second time, permission must be obtained from the copyright owner.

MULTIMEDIA

These guidelines apply to the use, without permission, of portions of lawfully acquired copyrighted works in educational multimedia projects which are created by educators or students as part of a systematic learning activity by nonprofit educational institutions. Educational multimedia projects created under these guidelines incorporate students' or educators' original material, such as course notes or commentary, together with various copyrighted media formats including but not limited to, motion media, music, text materials, graphics, illustrations, photographs, and digital software which are combined into an integrated presentation.

Educators and multimedia

Preparation of **all** educational multimedia projects using portions of copyrighted works are subject to;

- time,
- portion,
- copying, and
- distribution limitations.

These limitations apply cumulatively to each educator's multimedia project(s) for the same academic semester, cycle or term.

Educators are advised that they **must** include on the opening screen of their multimedia program and any accompanying print material a notice that certain materials;

- are included under the fair use exemption of the U.S. Copyright Law,
- have been prepared according to the educational multimedia fair use guidelines, and
- are restricted from further use.

MULTIMEDIA

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may:

- incorporate portions of lawfully acquired copyrighted works when producing multimedia projects to support the curriculum being taught,
- perform and display multimedia projects to students in the following situations:
 - for face-to-face instruction
 - assigned to students for directed self-study,
 - for remote instruction to students enrolled in curriculum-based courses and located at remote sites, provided over a secure electronic network in real-time, or
 - for after class review or directed self-study, provided there are technological limitations (such as a password or PIN) to prevent the making of copies of copyrighted materials.

Note: If technological limitations are not in place to prevent duplication of copyrighted material, students or educators may use the multimedia educational projects over a secure network for a period of;

- 15 days after its initial real-time remote use in the course of instruction, or
- 15 days after its assignment for directed self-study.

After that period, one of the two use copies of the project may be placed on reserve in a learning resource center, library or similar facility for on-site use by students enrolled in the course. Students shall be advised that they are not permitted to make their own copies of the multimedia project,

MULTIMEDIA

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

may continued:

- perform or display their own projects in presentations to peers, (e.g., workshops, conferences, etc.). They may perform or display the project for a period of up to two years after the first use with a class or a peer group. Use beyond that time period, even for educational purposes, requires permission from the copyright owner of each portion incorporated in the project,
- retain projects in personal portfolios for later uses such as tenure review or job interviews,
- use their projects created for teaching courses, for a period of up to two years after the first instructional use with a class. Use beyond that time period, even for educational purposes, requires permission from the copyright owner of each portion incorporated in the project,
- incorporate as part of a project up to ten (10) percent or three minutes of motion media, whichever is less, in the aggregate of a copyrighted motion media work,
- reproduce or otherwise incorporate as part of a project;
 - up to ten (10) percent or 1,000 words, whichever is less, in the aggregate of a copyrighted work consisting of text materials,
 - an entire poem of less than 250 words may be used, but no more than three poems by one poet, or five poems by different poets from any anthology,
 - an excerpt, not to exceed 250 words, from a longer poem may be used but no more than three excerpts by a poet, or five excerpts by different poets from a single anthology,

In the aggregate means the total amount of copyrighted material from a single copyrighted work that is permitted to be used in an educational multimedia project without permission.

MULTIMEDIA

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may continued:**
- reproduce or otherwise incorporate as part of a project up to ten (10) percent, but in no event more than 30 seconds, of music and lyrics from an individual musical work (or in the aggregate of extracts from an individual work), whether the musical work is embodied in copies, or audio or audiovisual works. Any alterations to a musical work shall not change the basic melody or the fundamental character of the work,
 - reproduce or incorporate as part of a project a photograph or illustration in its entirety, but no more than five images of an artist or photographer in any one multimedia program. When using photographs and illustrations from a published collective work, not more than ten (10) percent or 15 images may be used, whichever is less,
 - reproduce or otherwise incorporate as part of a project up to ten (10) percent or 2,500 fields or cell entries, whichever is less, from a copyrighted database or data table. A field entry is defined as a specific item of information, such as a name or number, in a record of a database file. A cell entry is defined as the intersection where a row and a column meet on a spreadsheet,
 - make two copies. One use copy may be placed on reserve in a learning resource center, library or similar facility for on-site use by students **enrolled in the course**. Students shall be advised that they are not permitted to make their own copies of the project. An additional copy may be made for preservation (archival) purposes but may only be used or copied to replace a use copy that has been lost, stolen, or damaged,

Note: The project may be placed on reserve for a period of up to two years after the first instructional use with a class. Use beyond that time period, even for educational purposes, requires permission from the copyright owner of each portion incorporated in the project.

MULTIMEDIA

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may continued:**
- maintain a single copy of a jointly-created project for the purpose of presenting at peer conferences and workshops or for their personal portfolio.
 - create a derivative work by making alterations to the copyrighted work that is being incorporated into an instructional project. This is allowed **ONLY** if the alterations support specific curriculum objectives.

Note: Educators are advised to note that alterations have been made.

MULTIMEDIA

Students and multimedia

Preparation of **all** educational multimedia projects using portions of copyrighted works are subject to;

- time,
- portion,
- copying, and
- distribution limitations.

These limitations apply cumulatively to each student's multimedia project(s) for the same academic semester, cycle or term.

Students are advised that they **must** include on the opening screen of their multimedia project and any accompanying print materials a notice that certain materials;

- are included under the fair use exemption of the U.S. Copyright,
- have been prepared according to the educational multimedia fair use guidelines, and
- are restricted from further use.

All students should be instructed about the reasons for copyright protection and the need to follow the guidelines.

MULTIMEDIA

Students

may:

- incorporate portions of lawfully acquired copyrighted works when producing their own projects for a specific course,
- may perform and display their own projects created for educational uses **in the course for which they were created** and may use them in their own portfolios as examples of their academic work for later personal uses such as job and graduate school interviews,
- incorporate, as part of a project, up to ten percent (10) or three minutes of motion media, whichever is less, in the aggregate of a copyrighted motion media work,
- reproduce or otherwise incorporate as part of a project;
 - up to ten (10) percent or 1,000 words, whichever is less, in the aggregate of a copyrighted work consisting of text materials,
 - an entire poem of less than 250 words may be used, but no more than three poems by one poet, or five poems by different poets from any anthology ,
 - an excerpt, not to exceed 250 words, from a longer poem may be used but no more than three excerpts by a poet, or five excerpts by different poets from a single anthology,
- reproduce or otherwise incorporate as part of a project up to ten (10) percent, but in no event more than 30 seconds, of music and lyrics from an individual musical work (or in the aggregate of extracts from an individual work), whether the musical work is embodied in copies, or audio or audio-visual works. Any alterations to a musical work shall not change the basic melody or the fundamental character of the work,
- reproduce or incorporate as part of an educational multimedia project a photograph or illustration in its entirety, but no more than five images of an artist or photographer in any one multimedia program. When using photographs and illustrations from a published collective work, not more than ten (10) percent or 15 images may be used, whichever is less,

MULTIMEDIA

Students

may continued:

- reproduce or otherwise incorporate as part of an educational multimedia project up to ten (10) percent or 2,500 fields or cell entries, whichever is less, from a copyrighted database or data table. A field entry is defined as a specific item of information, such as a name or number, in a record of a database file. A cell entry is defined as the intersection where a row and a column meet on a spreadsheet,
- maintain a single copy of a jointly-created project (one copy per principal creator) and may use them in their own portfolios as examples of their academic work for later personal uses such as job and graduate school interviews,
- make alterations in the copyrighted works they incorporate into a project **only** if the alterations support specific instructional objectives.

Note: Students are advised to note that alterations have been made.

MULTIMEDIA

Students and educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may not:**
- use copyrighted works in projects for commercial reproduction or distribution without obtaining permission from individual copyright owners,
 - use their personally created projects over electronic networks to which access is uncontrolled without obtaining permission from the copyright owner of each portion incorporated in the project,
 - reproduce or distribute copies of projects other than the allowable copies,
 - exceed the portion limitations established for each type of media. The portion limitations apply cumulatively to each project for the same academic semester, cycle or term.

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may not:**
- perform or display a student created project which includes copyrighted works unless permission from the copyright owner of each portion incorporated in the project is obtained prior to the use.

MULTIMEDIA -- IMPORTANT REMINDERS

Caution in downloading material from the Internet

Educators and students should exercise caution when downloading any material from the Internet for inclusion in a project. Lack of a copyright notice on a work does not mean the information can be reproduced and/or reused without permission. Furthermore, some copyrighted works may be posted without authorization of the copyright owner.

Attribution and acknowledgment

Educators and students are reminded to credit the sources and display the copyright notice and copyright ownership information if this information is shown in the original source. Crediting the source must adequately identify the source of the work, giving a full bibliographic description when available (including author, title, publisher, and place and date of publication). The copyright ownership information includes the copyright notice (©, year of first publication and name of the copyright holder).

The credit and copyright notice information may be combined and shown in a separate section of the educational multimedia project (e.g., credit section) **except** for images incorporated into the project.

Future uses beyond fair use

Educators and students are advised to note that if there is a possibility that their own educational incorporating copyrighted works under fair use could later result in broader dissemination, whether or not as commercial product, it is strongly recommended that they take steps to obtain permissions during the development process for all copyrighted portions rather than waiting until after completion of the project.

Integrity of copyrighted works: alterations

Educators and students may make alterations in the portions of the copyrighted works they incorporate as part of a project **only** if the alterations support specific instructional objectives. Educators and students are advised to note that alterations have been made.

MULTIMEDIA -- IMPORTANT REMINDERS

Reproduction or decompilation of copyrighted computer programs

Educators and students should be aware that either reproduction or decompilation of copyrighted computer programs and portions thereof, (for example, the transfer of underlying code or control mechanisms), even for educational uses, are a violation of these guidelines. Permission must be obtained from the copyright owner in order to decompile or reproduce copyrighted computer programs.

Licenses and contracts

Educators and students should determine whether specific copyrighted works, other data or information are subject to a license agreement or contract. Fair use and these guidelines shall not preempt or supersede license agreements and contractual obligations.

MULTIMEDIA QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers	
1.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others present a student's multimedia project that <u>includes copyrighted material</u> to a state, national, or local workshop and/or conference?	No	The educator may not perform, display, or present a student's multimedia project. The student's project does not belong to the instructor.
		Note:	Only the student may perform and display their own multimedia educational project for educational uses in the course for which it was created. After that time, the student may retain the project in their personal portfolio as an example of their academic work for later personal uses such as job and graduate school interviews.
2.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others present, with the student's permission, a multimedia project which contains <u>only original</u> material created by that student, at a state, national, or local workshop and/or conference?	Yes	This is allowed if permission is obtained from the student who is the copyright holder.
		CAUTION:	Please refer to district policy concerning identification of students by name, photograph, etc., and parent permission policy.
3.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others copy Hyper Text Markup Language (HTML) code and use it as his or her own?	No	Just as with other formats, the code is a creative work and is copyright protected. Educators must ask the copyright owner for permission if they wish to use the code.

MULTIMEDIA QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

	Questions		Answers
4.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others place a copy of a student's multimedia project that <u>includes copyrighted material</u> on reserve in the library media center for future students' use?	No	A student developed multimedia project may be shown only in the course for which it was created . Future students of the class may not use the copy unless the creator of the project obtains permission from all owners of original copyright.
5.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others create and retain a multimedia project which contains allowable portions of copyrighted materials to be used in face-to-face instruction for an <u>undetermined</u> period of time?	No	<p>The project may be used for a period of up to two years from the first instructional use with a class. Use beyond the two year time period, even for educational purposes, requires permission for each copyrighted portion incorporated in the project.</p> <p>Note: If the educator does not obtain permission to use the copyrighted portions past the initial two year period, the project may be retained only in a personal portfolio for later personal uses such as tenure review or job interviews.</p>
6.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others capture a web page using software or other means to be used in face-to-face instruction?	No	There are several commercially-produced software applications that allow the capture of the entire web page and/or site. The use of these applications may constitute a violation of copyright law as the software captures 100 percent of the web page.

MULTIMEDIA QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
<p>7. Must an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others credit the sources and display the copyright notice and ownership information when allowable portions of copyrighted materials have been incorporated into a multimedia project?</p>	<p>Yes Citing the sources of the copyrighted material and displaying the copyright notice and ownership information should be done if this information is shown in the original source. Different types of media require different types of citations.</p> <p>Note: Print/audio/visual – A full bibliographic description for print sources must be included in the bibliography.</p> <p>Images -- The copyright notice (e.g., ©), year of first publication, and ownership information for images must be incorporated into the image. Credit and copyright ownership information is considered “incorporated” if it is attached to the image file and appears on the screen when the image is viewed.</p>
<p>8. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others post a student’s multimedia project composed of only <u>original</u> work on a web page without their permission?</p>	<p>No Students are the owners of their original work and permission must be obtained before the work is posted.</p> <p>CAUTION: Please refer to district policy concerning identification of students by name, photograph, etc., and parent permission policy.</p>

MULTIMEDIA QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
9. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others include an <u>unlimited</u> number of scanned images from an individual work (cartoons, charts, diagrams, graphs, pictures, photographs, or drawings) in a multimedia project for use in face-to-face instruction?	<p>No Portion limitations detailed in the guidelines must be followed when using images in a multimedia project.</p> <p>Note:</p> <ul style="list-style-type: none">• No more than five images by any one artist or photographer may be reproduced or otherwise incorporated.• No more than ten (10) percent or 15 images, whichever is less, may be reproduced or otherwise incorporated from a published collective work. <p>Example: In a collective work of 100 photographs, only ten may be used as this is ten (10) percent of the work. Up to five of the ten photographs may be included from any one photographer.</p> <p>Example: In a collective work of 300 images, only 15 may be used as this is the maximum portion allowed from a single published collective work. Up to five of the 15 may be included from any one illustrator or artist.</p>

MULTIMEDIA QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
10. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others download material from a web page without a copyright notice and incorporate the entire web page into a multimedia project?	<p>No The assumption must be made that everything is copyrighted even in the absence of the copyright notice. Lack of a copyright notice on a work does not mean it is not protected.</p> <p>Note: Most web sites contain an e-mail address that the educator may easily use to contact the copyright owner for permission to use the information on the web page.</p> <p>CAUTION: Be aware that some information is posted without the knowledge and permission of the original copyright owner. It is important to remember that the person posting or managing the web site may not be the original copyright owner and therefore does not have the right to grant permission for use.</p>

MULTIMEDIA QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
11. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others scan and digitize <u>allowable</u> portions of images (cartoon, chart, diagram, graph, picture, or drawing) for use in presenting at peer conferences and workshops?	<p>Yes This is permissible if the presentation is made to an educator's peers; it is made for a non-commercial purpose; the quantity limitations are followed; and the presenter is not making a profit.</p> <p>Note:</p> <ul style="list-style-type: none"> • No more than five images by any one artist or photographer may be reproduced or otherwise incorporated. • No more than ten (10) percent or 15 images, whichever is less, may be reproduced or otherwise incorporated from a published collective work. <p>Note: These limits apply cumulatively to each educator's multimedia project(s) for the same academic semester, cycle or term.</p> <p>Note: Alterations may be made to the copyrighted work that is being incorporated into an instructional project. This is allowed ONLY if the alterations support specific curriculum objective.</p> <p>Educators are advised to note that alterations have been made.</p>

MULTIMEDIA QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
<p>11. continued</p> <p>May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others scan and digitize <u>allowable</u> portions of images (cartoon, chart, diagram, graph, picture, or drawing) for use in presenting at peer conferences and workshops?</p>	<p>continued</p> <p>Example: In a collective work of 100 photographs, only ten (10) may be used as this is ten (10) percent of the work. Up to five of the ten (10) photographs may be included from any one photographer.</p> <p>Example: In a collective work of 300 images, only 15 may be used as this is the maximum portion allowed from a single published collective work. Up to five of the 15 may be included from any one illustrator or artist.</p>

MULTIMEDIA QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
12. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others copy a <u>complete</u> song from an audio source, digitize it, and then add it to a multimedia presentation?	<p>No This would exceed portion limitations detailed in the guidelines.</p> <p>Note: Up to ten (10) percent, but in no event, more than 30 seconds, of an individual audio work may be copied.</p> <p>Example: The individual audio work lasts 30 seconds. The educator may copy only ten (10) percent (three seconds).</p> <p>Example: The individual audio work lasts six minutes (360 seconds). The educator may copy only 30 seconds. Ten percent would equal 36 seconds but no more than 30 seconds may ever be copied.</p>

STUDENTS

MULTIMEDIA QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
13. May a student prepare and present a multimedia project <u>using copyrighted material</u> in the allowed portions to an audience including people other than class members (e.g., parents, community members, students from other classes, etc.) during the scheduled class time?	No The student may perform and display their own multimedia educational project only in the course for which it was created . Only the educator and students enrolled in the course may view the presentation. Note: If a student wishes to perform or display their multimedia project outside the course for which it was created, the student must obtain permission for all copyrighted materials included in the project.
14. May a student prepare and present a multimedia <u>project using copyrighted material</u> in the allowed portions a second time (or more) after the assignment is fulfilled (e.g., Open House, PTA meeting, board meeting, educational seminar, technology conference, etc.)?	No The location and audience are outside the realm of the normal class structure. Students may display or perform their projects only in the course for which it was created .
15. May a student prepare and present a multimedia project <u>using copyrighted material</u> in the allowed portions in a location other than the daily classroom (e.g., community building, etc.)?	No The presentation must take place in a location devoted to instruction rather than entertainment or recreation and must be limited to the members of the class.

STUDENTS

MULTIMEDIA QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
16. May a student copy <u>unlimited</u> images (cartoon, chart, diagram, graph, picture, photograph or drawing) from a print source, scan the images and create digital images for use in an assigned multimedia project?	<p>No Multimedia guidelines allow for the use of a <u>limited</u> number of lawfully acquired images (cartoon, chart, diagram, graph, picture, photograph, or drawing).</p> <p>Note:</p> <ul style="list-style-type: none">• No more than five images by any one artist or photographer may be reproduced or otherwise incorporated.• No more than ten (10) percent or 15 images, whichever is less, may be reproduced or otherwise incorporated from a published collective work.

STUDENTS

MULTIMEDIA QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
16. Continued	Continued
May a student copy <u>unlimited</u> images (cartoon, chart, diagram, graph, picture, photographs or drawing) from a print source, scan the images and create a digital image for use in an assigned multimedia project?	<p>Example: In a collective work of 100 photographs, only ten (10) may be used as this is ten (10) percent of the work. Up to five of the ten (10) photographs may be included from any one photographer.</p> <p>Example: In a collective work of 300 images, only 15 may be used as this is the maximum portion allowed from a single published collective work. Up to five of the 15 may be included from any one illustrator or artist.</p> <p>Note: The final project must be a class assignment and the essence of the original image may not be destroyed.</p> <p>Creation of a multimedia project only for a personal portfolio is not a permitted use under the Fair Use guidelines.</p>

STUDENTS

MULTIMEDIA QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers	
17.	Must a student credit the sources and display the copyright notice and ownership information when allowable portions of copyrighted materials have been incorporated into a multimedia project?	Yes	<p>Citing the sources of the copyrighted material and displaying the copyright notice and ownership information should be done if this information is shown in the original source. Different types of media require different types of citations.</p> <p>Note: Print/audio/visual -- A full bibliographic description for print sources must be included in the bibliography.</p> <p>Images -- The copyright notice, (e.g., ©), year of first publication and ownership information for images must be incorporated into the image. Credit and copyright ownership information is considered “incorporated” if it is attached to the image file and appears on the screen when the image is viewed.</p>
18.	May a group of students collaborate to create a multimedia project with copyrighted material and make a copy for each student to retain?	Yes	<p>Each member of the collaborative group (creators) may retain one copy of a jointly created project for their personal portfolio.</p>

INTERNET

Works found on the Internet should be treated with the same discretion as materials found in offline formats. The mixture of works (images, music, text, clip art, etc.) should be used with caution as they may be

- protected by copyright, or
- posted without permission from the copyright owner.

Lack of a copyright notice on a work does not mean it is not protected. Copyright protects original works of authorship that are fixed in a tangible form of expression. Material in the public domain will be identified as such and may be used without permission.

This copyright protection includes materials posted to a web page, an electronic journal, an electronic bulletin board, an electronic newsletter, e-mail, listservs, and usergroups. Always check the rules of bulletin boards, listservs, etc., regarding posting, forwarding, and other manipulation of information.

When publishing an Internet page, make sure you have the proper rights for the graphics, logos, and photographs you use. Remember, for a photograph you must obtain permission from the photographer. An individual's right of privacy may limit the use of photographs on the Internet. Refer to district policy concerning the use of student and/or staff photographs.

Beware of programs that allow you to "capture" an entire Internet site or portion of a site for use off-line. Remember that under the fair use tests, one of the significant questions is how much of the item will be used. If the entire site is captured, that is 100%. Since Internet pages are ordinarily highly creative in design and content, the likelihood for a ruling of fair use declines significantly.

INTERNET

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may:**
- use small portions (ten (10) percent or less) of a document downloaded from the Internet for a class if there is not sufficient time to secure permission (just as with print materials). Permission can usually be secured quickly and easily electronically.

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may not:**
- download images from an Internet fee-based service (e.g., America Online (AOL)) and share with colleagues,
 - upload any students' work onto a network server without obtaining permission. Remember this may also involve privacy issues,
 - use more than ten (10) percent of the web site (text, sound, graphics, etc.) without prior consent,
 - keep originals or copies of student projects in which the student has incorporated materials copied from the Internet,
 - collect materials from the Internet or any bulletin board service and then compile them into a new work with a collective title without asking permission.

Students

- may:**
- use small portions (ten (10) percent or less) of documents downloaded from the Internet as long as the copies belong to them.

Students

- may not:**
- collect materials from the Internet or any bulletin board service and then compile them into a new work with a collective title without asking permission.

INTERNET QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
1. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others repost an e-mail message?	<p>No E-mail messages are tangible and fixed, therefore, they are copyrighted. Unless the author issues a permission statement, you must request permission before reposting an e-mail message.</p> <p>Note: Ramifications such as privacy invasion and/or character defamation should be considered before reposting.</p>
2. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others forward or repost a message from a listserv or usergroup?	<p>No The postings are original works of authorship fixed in a tangible medium, therefore, they are copyrighted.</p> <p>Note: Many authors attach a use statement preceding or following the posting. If in doubt, ask for permission.</p>
3. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others download images from a <u>fee-based service</u> such as America Online (AOL) or other services and then share them with colleagues?	<p>No Check the contract for the fee-based service for this type of use. Permission must be requested if not detailed in the contract.</p>
4. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others collect materials from the Internet and then compile them into an anthology with a new title?	<p>No Permission from the individual owners of the material must be obtained to create an anthology.</p>

INTERNET QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
5. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others upload an original student project onto a network server?	<p>No Students are the owners of their original projects and permission must be obtained before the work is posted.</p> <p>CAUTION: Please refer to district policy concerning identification of students by name, photograph, etc., and parent permission policy.</p>
6. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others upload a student project containing <u>allowable</u> portions of copyrighted materials onto a network server?	<p>No The student is not the copyright owner of the entire project. The student must obtain permission from all copyright holders before the work may be placed on the network server.</p> <p>Note: The student project may be used only with the class and/or class members for which it was created unless permission is obtained for the copyrighted portions.</p>
7. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others upload copyrighted software to the Internet for downloading by others?	<p>No The software is copyrighted therefore it may not be made available to other unlicensed users.</p>

DISTANCE LEARNING

Broadly viewed, distance learning is an educational process that occurs when instruction is delivered to students physically remote from the location or campus of program origin, the main campus, or the primary resources that support instruction. In this process, the requirements for a course or program may be completed through remote communications with instructional and support staff including either one-way or two-way written, electronic or other media forms.

Distance education involves teaching through the use of telecommunications technologies to transmit and receive various materials through voice, video and data. These avenues of teaching often constitute instruction on a closed system limited to students who are pursuing educational opportunities as part of a systematic teaching activity or curriculum and are officially enrolled in the course. Examples of such analog and digital technologies include;

- telecourses,
- audio and video teleconferences,
- closed broadcast and cable television systems,
- microwave and ITFS,
- compressed and full-motion video,
- fiber optic networks,
- audiographic systems,
- interactive videodisc,
- satellite-based, and
- computer networks.

These proposed guidelines (May, 1999) apply to the performance of lawfully acquired copyrighted works not included under Section 110(2) (such as a dramatic work or an audio-visual work) as well as to uses not covered for works that are included in Section 110(2).

The covered uses are:

- live interactive distance learning classes (i.e., a teacher in a live class with all or some of the students at remote locations), and
- faculty instruction recorded without students present for later transmission.

They apply to delivery via satellite, closed circuit television or a secure network. They do not permit circumventing anti-copying mechanisms embedded in copyrighted works.

DISTANCE LEARNING

These guidelines do not cover asynchronous delivery of distance learning over a network, even one that is secure and capable of limiting access to students enrolled in the course through PIN or other identification system.

In some cases, the guidelines do not apply to specific materials because no permission is required, either because the material to be performed or displayed is in the public domain, or because the instructor or the institution controls all relevant copyrights. In other cases, the guidelines do not apply because the copyrighted material is already subject to a specific agreement. For example, if the material was obtained pursuant to a license, the terms of the license apply. If the institution has received permission to use copyrighted materials specifically for distance learning, the terms of that permission apply.

Eligible educational institution and students

These guidelines apply to nonprofit educational institutions at all levels of instruction whose primary focus is to support research and instructional activities.

Only students officially enrolled for a course at an eligible institution may view the transmission that contains works covered by these guidelines. This may include students enrolled in the course who are currently matriculated at another eligible institution. These guidelines are also applicable to government agency employees who take the course or program offered by the agency as part of their official duties.

Works performed for instruction

Works performed must:

- be integrated into the course,
- be part of systematic instruction, and
- be directly related to the teaching content of the transmission.

The performance may **not** be for entertainment purposes.

DISTANCE LEARNING

Transmission and reception	<p>Transmission must be over a secure system with technological limitations on access to the class or program such as a Personal Identification Number (PIN) number, password, smartcard or other means of identification of the eligible student.</p> <p>Reception must be in a classroom or other similar place normally devoted to instruction or any other site where the reception can be controlled by the eligible institution. In all such locations, the institution must utilize technological means to prevent copying portions of the class session that contain the copyrighted work.</p>
Limitations	<p>Performance of an entire copyrighted work or a large portion thereof may be transmitted only once for a distance learning course. For subsequent performances, displays or access, permission must be obtained.</p>
Reproduction and access to copies: receiving institution	<p>The institution receiving the transmission may record or copy class sessions that include the performance of an entire copyrighted work, or a large portion thereof, and retain the recording or copy for up to 15 consecutive class days (i.e., days in which the institution is open for regular instruction) for viewing by students enrolled in the course. Access to the recording or copy for such viewing must be in a controlled environment such as a classroom, library or media center, and the institution must prevent students copying the portion of the class session that contains the copyrighted work. If the institution wants to retain the recording or copy of the transmission for a longer period of time, it must obtain permission from the rights holder or delete the portion which contains the performance of the copyrighted work.</p>
Reproduction and access to copies: transmitting institution	<p>The transmitting institution may, under the same terms, reproduce and provide access to copies of the transmission containing the copyrighted work; in addition, it can exercise reproduction rights provided in Section 112(b).</p>
Commercially produced multimedia	<p>If the copyrighted multimedia work was obtained pursuant to a license agreement, the terms of the license apply. If, however, there is no license, the performance of the copyright elements of the multimedia works may be transmitted in accordance with the provisions of these guidelines.</p>

DISTANCE LEARNING

Permission is required when

- any **commercial use** including the situation where a nonprofit educational institution is conducting courses for a for-profit corporation for a fee such as supervisory training courses or safety training for the corporation's employees,
- an institution offering instruction via distance learning under these guidelines wants to further **disseminate the recordings** of the course or portions that contain performance of a copyrighted work,
- an institution (agency) wants to offer access to a course or program that contains the performance of copyrighted works to non-employees in an **uncontrolled environment**,
- an institution wishes to retain the recorded or copied class session, **beyond the 15-day limitation**, that contains the performance of a copyrighted work not "covered in Section 110(2)". It could delete the portion of the recorded class session that contains the performance.

DISTANCE LEARNING

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may:**
- conduct live interactive distance learning classes,
 - record original faculty instruction without students present for future transmission,
 - integrate allowable portions of copyrighted material into systematic face-to-face instruction for a **one time** transmission,
 - transmit an entire copyrighted work or a large portion thereof **one time** for a distance learning course.

Educators (e.g., administrators, classroom teachers, substitute teachers, and student teachers), other district employees, volunteers, or others

- may not:**
- circumvent anti-copying mechanisms embedded in copyrighted works,
 - transmit works for entertainment, reward, and/or time-filler,
 - transmit or display a copyrighted work more than one time without permission from the copyright owner,
 - use or retain a copy of a class session that contains copyrighted work beyond the 15 day limitation.

DISTANCE LEARNING

Institutions receiving the transmission for distance learning classes

may:

- record, copy, and retain for 15 consecutive class days, transmitted classes which include copyrighted work for viewing by students enrolled in the course. Access to the recording or copy must be in a controlled environment such as a classroom, library or media center, and the institution prevents copying by students.

Note: If the institution wishes to retain the recording or copy of the transmission for a longer period of time, it must obtain permission from the copyright owner or delete the portions which contain the copyrighted work.

DISTANCE LEARNING QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
1. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others show a videotape for reward, entertainment, or time-filler in a distance learning class ?	<p>No Videotapes may be not be used for reward, entertainment, or time-filler. These situations would be considered a public performance.</p> <p>Note: Public performance rights must be purchased if a videotape is used for any reason other than face-to-face instruction</p>
2. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others rent or purchase a videotape from a local store to be used in distance learning instruction?	<p>Yes Videotapes may be used one time in a distance learning class to support instruction.</p> <p>Note: The next use of that title in a distance learning class requires the purchase of public performance rights or permission from the copyright owner.</p> <p>Videotapes may not be used for entertainment or reward in any situation without the purchase of public performance rights.</p>
3. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others make or request that a videotape be made which uses clips from several videotapes to teach a particular concept in a distance learning class?	<p>No Compiling an anthology or collection from print, film, or excerpts from videos is not allowed in any situation.</p>

DISTANCE LEARNING QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions	Answers
4. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others show an off-air program over a two- or three-day period or may excerpts of the program be shown in a distance learning class?	Yes As long as the program is used in face-to-face instruction, it may be shown in its entirety one time within ten school days from the date of taping. Excerpts may also be used (with proper copyright notice) provided the recorded program is not altered from its original content and is also shown within ten school days of the taping.
5. May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others display an image (cartoon, chart, diagram, graph, picture, or drawing) for distance learning education and repeat the use from term to term?	No A copyrighted work may be transmitted only once for any distance learning course. Repeated transmission requires permission from the copyright owner.

INTERLIBRARY LOAN

Interlibrary loan is between school districts or a school district and a public, private, or academic library.

Libraries are allowed to share copied materials through a system of interlibrary loan (ILL) as long as sharing is not systematic and the copied materials do not substitute for purchase.

CONTU GUIDELINES

The National Commission on New Technological Uses of Copyrighted Works (CONTU) established mandatory interlibrary loan procedures to assure compliance with the copyright law.

The CONTU guidelines for the **borrowing** library are as follows. The borrowing library;

- must display a copyright warning notice at the place interlibrary loan orders are accepted. The copyright warning notice must also be included on the ILL request form along with verification of copyright compliance. *The size and wording of both notices are specified by law,*
- must abide by the “Rule of Five.” The rule of five applies to the interlibrary loan of periodical titles published within five years from the date of a request. The borrowing library may request six photocopies of any article *per periodical title* (not single issue) *during each calendar year*. Copying older materials falls under the fair use guidelines,
- may request copies from a title which is
 - on order
 - at the bindery
 - needed to supplement a missing issue

These copies need not be included in the annual tabulation of the total allowable copies,

- must maintain records for all loan requests and fulfillments for the current year and the three previous calendar years.

INTERLIBRARY LOAN

The CONTU guidelines for the **lending** library are as follows. The lending library;

- may send only one copy of the requested material. That copy becomes the property of the requesting patron not the requesting library,
- may duplicate only six copies from any single work *per year*, during the entire time a work falls under copyright protection,
- must include a copyright notice as it appears on the work,
- this can be done by creating a rubber stamp with blank spaces for noting the copyright information as it appears on the work;

© , _____ (for copyright owner), _____ (for year published).

Example:

© , The New York Times Company Magazine Group, 1999.

- in cases where the copyright owner does not place a notice on the work (e.g., Internet sites, etc.) the following must appear;

“Notice; this work may be protected by copyright.”

INTERLIBRARY LOAN QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers	
1.	May a library media center retain copies of articles it receives for interlibrary loan patrons?	No	Only the requesting patron may retain the copy. If a library wishes to retain a copy, permission must be requested from the copyright owner and a royalty fee may be charged. Note: There are publishers and commercial services that facilitate this type of transaction (e.g., Copyright Clearance Center (CCC)).
2.	May interlibrary loan be facilitated through the use of a fax machine?	Yes	The lending library may make a photocopy of the material in order to fax it to the borrowing library. The lending library must destroy the photocopy after transmission.

RESERVES

Photocopying for library reserve use is not mentioned specifically in the Copyright Act. In an attempt to offer guidance to faculty and libraries, the American Library Association (ALA) issued a Model Policy for library use regarding photocopying materials for the reserve area.

At the request of a faculty member, a library may photocopy allowable portions from a copyrighted work owned by the library and place the copy or copies on reserve. The ALA Model Policy guidelines apply to library reserves as an extension of the classroom.

Single or multiple copies

The following print guidelines should be applied when making **single or multiple** copies for the reserve area.

- **spontaneity:** a faculty member may request that copies of copyrighted material be placed on reserve if there is insufficient time to obtain permission from the copyright owner.
- **cumulative effect:** use of copyrighted materials on reserve from term to term requires permission from the copyright owner.
- **market effect:** photocopying copyrighted material to be placed on reserve must not be detrimental to the potential market or value of the work. The following consumable materials may not be copied under **any** circumstances, workbooks, sample tests, activity books, etc.

RESERVES

Single or multiple copies continued

- **copyright notice:** a copyright notice must be included on the first page of copies placed on reserve;
- this can be done by creating a rubber stamp with blank spaces for noting the copyright information as it appears on the work.

© , _____ (for copyright owner), _____ (for year published).

Example:

© , The New York Times Company Magazine Group, 1999.

- in cases where the copyright owner does not place a notice on the work (e.g., Internet sites, etc.) the following must appear;

“Notice; this work may be protected by copyright.”

Single copy

A *single* copy of the following may be placed on reserve at the request of an individual teacher.

- a chapter from a book
- an article from a periodical or newspaper
- a short story, short essay, or short poem, whether or not from a collective work
- a chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper.

Multiple copies

Multiple copies may be placed on reserve at the request of an individual teacher if the copying meets the tests of brevity, spontaneity, and cumulative effect. A reasonable number of copies will, in most instances, be less than six. Factors such as the length or difficulty of the assignment, the number of students enrolled in the course, and the length of time allowed for completion of the assignment should be taken into consideration.

RESERVES

Brevity

Poetry: A complete poem if less than 250 words and if printed on not more than two pages or, from a longer poem, an excerpt of not more than 250 words. This may be expanded to permit the completion of an unfinished line of a poem.

Prose: (a) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or ten (10) percent of the work, whichever is less, but in any event a minimum of 500 words. This may be expanded to permit the completion of an unfinished prose paragraph.

Illustration: One chart, graph, diagram, drawing, cartoon, or picture per book or per periodical issue.

Special works: Works of less than 2,500 words which combine language with illustrations. These works are sometimes intended for children and at other times for a more general audience.

Special works (e.g., picture books) may not be reproduced in their entirety. An excerpt of not more than three published pages which contain not more than ten (10) percent of the words may be reproduced.

Spontaneity

In order to meet the fair use test of spontaneity, the inspiration and decision of the individual to use the work and the time of its use (for maximum teaching effectiveness) are so close together, that it would be unreasonable to expect a timely reply to a request for permission.

Cumulative effect

1. One short poem, article, story, essay or two excerpts may be copied from the same author.
2. Three short poems, articles, stories, essays or excerpts from the same collective work or periodical volume may be copied during one class term.
3. A limit of nine instances of such multiple copying for one course during one class term.

RESERVES QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers
1.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others place a personally owned periodical on reserve in the library media center for student use?	Yes Legally acquired works (with the owner's permission) may be placed on reserve in a library media center. This may be repeated for the life of the work. First Sale Doctrine allows an owner of a legally acquired work to distribute that copy as they wish.
2.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others place on reserve a photocopy of an article from a periodical the library media center does not own?	Yes The library media center may; <ul style="list-style-type: none">• reproduce one copy of a published article provided proper copyright notice is used, and• there is no direct or indirect commercial advantage for such use, and• provided the library media center is open to the public, or to at least anyone doing research in this field, whether or not affiliated with that library.

RESERVES QUESTIONS AND ANSWERS

All questions assume copyright permission has not been obtained. **Individuals are always encouraged to contact the copyright holder to request permission to use the copyrighted work.**

Questions		Answers	
3.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others place a legally acquired (library media center owned or personally owned) book on reserve?	Yes	Legally acquired works (with the owner's permission) may be placed on reserve in a library media center. This may be repeated for the life of the work. First Sale Doctrine allows an owner of a legally acquired work to distribute that copy as they wish.
4.	May an educator (e.g., administrator, classroom teacher, substitute teacher, or student teacher) other district employee, volunteer, or others place a book or periodical requested through interlibrary loan on reserve?	Yes	There are no restrictions if the lending library sends the original work.

IMPORTANT COPYRIGHT REMINDERS

Facts and ideas	<p>Facts and ideas cannot be copyrighted even if they make up a copyrighted work. Only an author's particular expression of those facts and ideas is protected by copyright law.</p> <p>Examples of facts include:</p> <ul style="list-style-type: none">• multiplication tables,• a simple outline map,• street names, or• a chronology of historical events.
Fixation	<p>Under the law, original works of authorship are copyright protected at the time that they are fixed in a tangible medium. A work is fixed if it is included in a concrete form of expression (e.g., written, printed, photographic, sculptural, architectural, musical, electronic, or any other stable form).</p>
Educator's responsibility	<p>An educator's responsibility includes;</p> <ul style="list-style-type: none">• adhering to the copyright law and guidelines,• researching copyright limitations for specific mediums prior to developing units and making assignments, and• instructing and monitoring students in the appropriate use of copyrighted materials.
Requesting copyright permission	<p>An educator or student may use copyrighted works more freely than detailed in the guidelines if permission is requested and granted from the copyright owner.</p> <p>Requesting permission during the creation of a project is always advised. Permission may allow the creator of the project to include more copyrighted material, therefore enhancing the project. It may also allow more freedom for presenting the project after completion.</p>
Creative works	<p>Fair use seldom allows the reproduction of an entire copyrighted work (e.g., copying an entire song or video, capturing an entire web page, etc.).</p>

COPYRIGHT DATES TO REMEMBER

Duration of copyright	Over the years, the copyright law has been amended and the number of years the work is protected has increased. Upon the expiration of the copyright, a work enters public domain and can be copied freely without permission. It is the responsibility of the user to determine the status of the work.
1790	14 years with 14-year renewal (Total 28 years)
1831	28 years with 14-year renewal (Total 42 years)
1909	28 years with 28-year renewal (Total 56 years)
1976	The life of the author plus 50 years. For anonymous works, pseudonymous works and work for hire - 75 years from the year of first publication, or a term of 100 years from the year of creation or whichever expires first.
1976	Rights of the copyright owner are not forfeited when the copyright notice is not included on the work.
1978	Copyright protection exists from the time the original work of authorship is fixed in any tangible medium of expression, now or later developed. Copyright in a work created on or after January 1, 1978 exists from its creation and endures for the life of the author plus fifty years after the author's death with no renewals.
1989	The Berne Act of March 1, 1989 removed the requirement of a copyright notice as a prerequisite of copyright protection. Deposit and registration are still required to file infringement suits.
1998	<p>The Copyright Term Extension Act, (S. 505), also known as the Sonny Bono Copyright Term Extension Act, extended copyright protection to life of the author plus 70 years. Protection for corporate creators (anonymous works, pseudonymous works, and work for hire) was extended to 95 years from the first year of publication.</p> <p>The Digital Millennium Copyright Act (DMCA) of October 28, 1998, was implemented.</p>
1999	The Distance Learning guidelines were proposed. These guidelines apply to performance and transmission of lawfully acquired works for the use of live interactive distance learning classes and faculty instructed recordings.

GLOSSARY

Academic multimedia project	An unpublished electronic project compiled or assembled by educators or students as part of a systematic learning activity.
Adaptation	The act of enlarging or reducing the entire copyrighted image. The resulting product must be an exact copy except for the size.
Alteration	The act of adding or removing portions of the original copyrighted image to create a derivative work.
Attribution/citation	A bibliographic description that identifies the source of a copyrighted work and includes the publisher, the place and date of publication, and other descriptive information about the copyrighted work.
Archival copy	<p>Archival copies are allowed in only the following formats.</p> <p><i>Software:</i> A copy of a software program or software print documentation to be used instead of the original. The original may be archived and utilized to create a new use copy in the event the first use copy is destroyed or no longer works correctly.</p> <p><i>Multimedia Project:</i> One copy of an educator's project may be made for archival purposes.</p>
Brevity	A measure used to determine if the material to be copied is within allowable portions. Specific copying limitations are based on the type of original material.
Broadcast rights	The right granted by the copyright owner to transmit the performance of a work via electronic means.
Collective work	A work in which a number of contributions, consisting of separate and independent copyrighted works are assembled into a collective whole.
Compilation	Not an original creation. A work formed by using portions of original, copyrighted works. This term includes collective works.

GLOSSARY

CONFU	<p>The Conference on Fair Use (CONFU) was a group of more than 95 organizations including librarians, educators, publishers and other interested parties that produced three sets of Educational Fair Use Guidelines for the digital world:</p> <ul style="list-style-type: none">• Educational Fair Use Guidelines for Digital Images,• Educational Fair Use Guidelines for Distance Learning,• Fair Use Guidelines for Educational Uses for Multimedia.
CONTU	<p>The National Commission on New Technological Uses of Copyrighted Works (CONTU) was appointed by Congress to establish mandatory interlibrary loan procedures to assure compliance with the copyright law.</p>
Contributory infringer	<p>A party who, with knowledge of the infringing activity, induces, causes, or materially contributes to the infringing conduct of another.</p>
Copyright law	<p>A limited monopoly granted by federal law. It is a property right in an original work of authorship that is fixed in any tangible medium of expression. Copyright protection exists at the point that the original work of authorship is fixed in any tangible medium of expression, now or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.</p>
Creative work	<p>The intellectual creation of ideas expressed in a tangible format.</p>
Cumulative effect	<p>The measure of how many times a work may be copied during one course term. Specific copying limitations are based on the type of original material and works by the same author and from collections.</p>
Derivative work	<p>A work based on one or more pre-existing materials. Editorial revisions, annotations, elaborations, or other modifications which as a whole represent an original work of authorship is a derivative work. Examples include dramatizations, fictionalizations, translations, musical arrangements, art reproductions, or any other form in which a work may be altered, transformed, or changed. The copyright owner retains the exclusive right to make a derivative work.</p>

GLOSSARY

Distance learning	An educational process that occurs when instruction is delivered to students physically removed from the location or campus of program origin, the main campus, or the primary resources that support instruction. The requirements for a course or program may be completed through remote communications with instructional and support staff including either one-way or two-way written, electronic or other media forms. See also Remote Instruction.
Downloading	The electronic transfer of allowable portions of information from an original source to a storage device. The information may be saved for searching, manipulation, or printing.
Educational institution	A non-profit institution whose primary focus is supporting instructional activities and research of educators and students for non-commercial purposes.
Educational uses	Curriculum-based teaching activities assigned by an educator for students enrolled in a specific course at an educational institution.
Face-to-face instruction	Delivery of instruction in a non-profit educational institution, in a classroom or similar place devoted to instruction. Instruction must be directly related to the current curricular objectives.
Fair use	The legal right to copy a limited amount of material under certain conditions without harm to the owner.
First sale doctrine	Allows the resale or loan of a copyrighted work after it is first sold.
Fixed work	A work in a permanent, tangible, or final form (e.g., print, video, audio, electronic file, etc.).
Format	The medium by which a work is fixed (e.g., print, audio cassette, CD, transparency, etc.).
In the aggregate	The total amount of material from a single copyrighted work that is permitted to be used in an educational multimedia project without permission.

GLOSSARY

Infringer

There are two categories of infringers.

Primary: The person who violates the copyright law through their actions.

Secondary : Any person who assists the primary infringer. There are two types of secondary infringers.

Contributory: A party who, with knowledge of the infringing activity, induces, causes, or materially contributes to the infringing conduct of another.

Vicarious: One person may be held liable for the infringing acts of another person. In order to be held vicariously liable for the acts of another, a person must:

- have the right to control the actions of the other (even if control is not actually exercised), *and*
- must receive a financial benefit, direct or indirect, from the infringement.

Lawfully acquired

Refers to copyrighted works that the institution or individual has obtained through lawful means such as a purchase, gift or license agreement.

Multimedia

An interactive work that incorporates various media formats, including but not limited to motion media, music, text, graphics, illustrations, photographs, and digital software into a single program, project, or learning system.

Obsolescence

Obsolescence occurs if the machine necessary to read the work is no longer being manufactured or cannot be acquired at a reasonable price in the marketplace.

Original work

The intellectual creation of ideas expressed in a tangible format.

Peer conferences

Professional development seminars, workshops, and/or conferences where specific information relevant to a discipline is presented.

Portfolio

Examples of an individual's work compiled over a period of time in a print or electronic based project.

GLOSSARY

Portion limitations	The amount of a copyrighted work that can reasonably be used under the fair use exemption. The portion permitted under fair use will generally differ depending on the nature of the copyrighted work and in the amount used in relation to the copyrighted work as a whole.
Preservation copies	May be made in instances where a work has been damaged, deteriorating, lost or stolen, and a replacement copy is not available at a reasonable price or if the equipment needed to use the work is obsolete.
Public domain	Works which are not protected by copyright. These works may be state and/or federal documents, or works donated or expired into public domain.
Public performance	The display or performance of any works for any reason other than face-to-face instruction.
Remote instruction	Instruction by an educator at one site provided over an educational institutions closed network to students enrolled in the class but who are physically located at another site. See also Distance Learning.
Rule of five	<p>The rule of five applies to the interlibrary loan of periodical titles published within <u>five years</u> from the date of a request.</p> <p>The borrowing library may request <u>six</u> photocopies of any article <i>per periodical title</i> (not single issue) <i>during each calendar year</i>. Copying older materials falls under the fair use guidelines.</p>
Secure delivery system	A method limiting access to information (voice, video, data, etc.) using PIN numbers, passwords, or electronic devices. This method might include a local/wide area network, closed circuit video delivery system, or a distance learning transmission.
Spontaneity	In order to meet the fair use test of spontaneity, the inspiration and decision of the individual to use the work and the time of its use (for maximum teaching effectiveness) are so close together, that it would be unreasonable to expect a timely reply to a request for permission.

GLOSSARY

Transmission	Transfer of video, voice, and/or data from one location to another.
User license	A license granted by the copyright owner at the time of purchase that dictates the number of access points for the software.
Vicarious infringer	<p>One person may be held liable for the infringing acts of another person. In order to be held vicariously liable for the acts of another, a person must:</p> <ul style="list-style-type: none">• have the right to control the actions of the other (even if control is not actually exercised), <i>and</i>• must receive a financial benefit, direct or indirect, from the infringement.

COPYRIGHT WARNING NOTICE

The following notice should be placed on all photocopying equipment, video recording equipment, audio recording equipment, computers, and any other equipment that could be used to reproduce copyrighted materials. It is recommended that type be in all capital letters and at least 18 points in size. This is provided in 18 point.

NOTICE WARNING CONCERNING COPYRIGHT RESTRICTIONS

**THE COPYRIGHT LAW OF THE UNITED STATES
(TITLE 17, UNITED STATES CODE) GOVERNS THE
MAKING OF PHOTOCOPIES OR OTHER
REPRODUCTIONS OF COPYRIGHTED MATERIAL.**

**UNDER CERTAIN CONDITIONS SPECIFIED IN
THE LAW, LIBRARIES AND ARCHIVES ARE
AUTHORIZED TO FURNISH A PHOTOCOPY OR OTHER
REPRODUCTION. ONE OF THESE SPECIFIC
CONDITIONS IS THAT THE PHOTOCOPY OR
REPRODUCTION IS NOT TO BE USED FOR ANY
PURPOSE OTHER THAN PRIVATE STUDY,
SCHOLARSHIP, OR RESEARCH. IF A USER MAKES A
REQUEST FOR, OR LATER USES, A PHOTOCOPY OR
REPRODUCTION FOR PURPOSE IN EXCESS OF FAIR
USE, THAT USER MAY BE LIABLE FOR COPYRIGHT
INFRINGEMENT.**

**THIS INSTITUTION RESERVES THE RIGHT TO
REFUSE TO ACCEPT A COPYING ORDER IF, IN ITS
JUDGMENT, FULFILLMENT OF THE ORDER WOULD
INVOLVE VIOLATION OF COPYRIGHT LAW. THE
PERSON USING THIS EQUIPMENT IS LIABLE FOR
ANY INFRINGEMENT.**

COPYRIGHT WARNING NOTICE: PHOTOCOPIES

All photocopies made for interlibrary loan and classroom use **must** include a copyright notice.

Copyright notice given in the publication

The educator or student must include the copyright notice as it appears on the work.

This can be done by creating a rubber stamp with blank spaces for noting the copyright information as it appears on the work.

© , _____ (for copyright owner),
_____ (for year published).

Example:

© , The New York Times Company Magazine Group, 1999.

Copyright notice not given in the publication

In cases where the copyright owner does not place a notice on the work (e.g., Internet sites, etc.) the following must appear;

“Notice; this work may be protected by copyright”

COPYRIGHT WARNING NOTICE: INTERLIBRARY LOAN

Copyright warning notice

All interlibrary loan request forms must include the following notice. It must be printed within a prominent box on the actual order form. The notice may be on the front of the form, or adjacent to the section requiring the patron's signature. The notice cannot be in type smaller than that used throughout the form, and in no case may it be smaller than eight point type. The notice must be clearly apparent, legible, and comprehensible to even a casual viewer of the form.

The same notice must be displayed at the place where ILL orders are taken. Such notice must be printed on heavy paper, in type no less than 18 points in size. It must be placed so as to be clearly visible, legible, and comprehensible near the place where ILL orders are accepted.

Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use" that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of the copyright law.

COPYRIGHT WARNING NOTICE: COMPUTER SOFTWARE

**Copyright
warning
notice
Notice**

All computer software must include the following notice

Notice: Warning of Copyright Restrictions

The copyright law of the United States (Title 17, United State Code) governs the reproduction, distribution, adaptation, public performance and public display of copyrighted material.

Under certain conditions of the law, nonprofit libraries are authorized to lend, lease, or rent copies of computer programs to patrons on a nonprofit basis for nonprofit purposes. Any person who makes an unauthorized copy or adaptation of the computer program, or redistributes the loan copy, or publicly performs or displays the computer program, except as permitted by Title 17 of the United State Code, may be liable for copyright infringement.

This institution reserves the right to refuse to fulfill a loan request if in its judgment, fulfillment of the request would lead to violation of the copyright law.

COPYRIGHT WARNING NOTICE: VIDEOS, (VHS/DVD) AND CDS
(adapted from the computer software warning)

**Copyright
warning
notice
Notice**

All videos and compact disks should include the following notice

Notice: Warning of Copyright Restrictions

The copyright law of the United States (Title 17, United State Code) governs the reproduction, distribution, adaptation, public performance and public display of copyrighted material.

Under certain conditions of the law, nonprofit libraries are authorized to lend, lease, or rent copies of videos and compact disks to patrons on a nonprofit basis for nonprofit purposes. Any person who makes an unauthorized copy or adaptation of the material, or redistributes the loan copy, or publicly performs or displays the computer program, except as permitted by Title 17 of the United State Code, may be liable for copyright infringement.

This institution reserves the right to refuse to fulfill a loan request if in its judgment, fulfillment of the request would lead to violation of the copyright law.

SAMPLE FORMS

COPYRIGHT VERIFICATION

VIDEOTAPE (not in district collection)

I, _____, certify that the videotape
(user's name)

(title)

was borrowed from _____
(owner's name)

and is a legally acquired copy. I am using this videotape as part of face-to-face
instruction with the understanding that the videotape will be used for instructional
purposes in the _____ class.
(name of class)

The information will be used to

(reason the videotape needs to be shown)

I release the staff and students of _____
(school building name)

of liability for damages that occur to the videotape.

User signature _____

Date _____

Principal/Supervisor signature _____

Date _____

SAMPLE FORMS

OFF-AIR TAPING VERIFICATION

Name of program _____

Channel (circle one) ABC CBS NBC PBS OTHER _____

Name of class _____

Instructional purpose of the tape _____

Recording date _____

May be shown to students from _____(date) to _____(date)
(10 consecutive school days from date of recording)

May be reviewed / evaluated by staff from _____ (date) to _____(date)
(45 calendar days from date of recording)

Erasing date _____
(46th calendar day from the date of recording)

User signature _____

Date _____

Principal/Supervisor signature _____

Date _____

SAMPLE FORMS

CABLE/SATELLITE RECORDING VERIFICATION

Name of program _____

Channel name (not channel number) _____

Name of class _____

Instructional purpose of the tape _____

Recording date _____

Length of time taped program may be retained (circle one)

10 days 30 days 3 months 6 months 1 year 2 years 3 years

Life of tape OTHER _____

Erasing date _____

User signature _____

Date _____

Principal/Supervisor signature _____

Date _____

SAMPLE FORMS

REQUEST FOR PERMISSION TO COPY

Include the following information when requesting written permission to copy materials.

- Title
- Author(s)
- Copyright year
- Medium/format to be duplicated
- Number of copies
- Manner of distribution
- Type of reproduction
- Length of retention
- Purpose/use of the reproduction
- Contact information, address, e-mail, or fax number.

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